

1 STATE OF MINNESOTA
COUNTY OF RAMSEY

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3 THE STATE OF MINNESOTA,
4 BY HUBERT H. HUMPHREY, III,
5 ITS ATTORNEY GENERAL,
6 and

7 BLUE CROSS AND BLUE SHEILD
8 OF MINNESOTA

9 Plaintiffs,

10 -vs- Case File No. C1-94-8565

11 PHILIP MORRIS INCORPORATED,
12 R.J. REYNOLDS TOBACCO COMPANY,
13 BROWN & WILLIAMSON TOBACCO CORPORATION,
14 B.A.T. INDUSTRIES P.L.C.,
15 BRITISH-AMERICAN TOBACCO COMPANY LIMITED,
16 BAT (U.K. & EXPORT) LIMITED,
17 LORILLARD TOBACCO COMPANY,
18 THE AMERICAN TOBACCO COMPANY,
19 LIGGETT GROUP, INC.,
20 THE COUNCIL FOR TOBACCO RESEARCH - U.S.A.,
21 INC., AND THE TOBACCO INSTITUTE, INC.

22 Defendants

23 - - - - -

24 DEPOSITION OF RAYMOND J. PRITCHARD
25 VOLUME III, Pages 350 - 506

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 (The following is the deposition of
2 RAYMOND J. PRITCHARD, taken pursuant to Notice of
3 Taking Deposition, at the offices of Brown, Todd &
4 Heyburn, PLLC, 3200 Providian Center, Louisville,
5 Kentucky, commencing at approximately 8:30 o'clock
6 a.m., October 29, 1997.)

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1 I N D E X

2 EXM. BY MR. MCGANN 356, 454

3 EXM. BY MS. WIVELL 443

4 - - -

5 E X H I B I T S

6 Pritchard Ex. 1292

7 Research & Development Meeting

8 of the Heads of the CAC Tobacco

9 Companies, March 7-8, 1985 393

10

11 Pritchard Ex. 1293

12 R&D Directors' Meeting,

13 March 21-22, 1985 404

14

15 Pritchard Ex. 1294

16 GR&DC Reorganization 407

17

18 Pritchard Ex. 1295

19 Airbus Review, Prepared for

20 Mr. R.J. Pritchard,

21 March 6, 1989 428

22

23 Pritchard Ex. 1477

24 Letter from Dennis to McCarty,

25 January 24, 1985 461

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1	Pritchard Ex. 1478	
2	Project Top Gun, Consumer	
3	Reactions to New Cigarette	
4	Concepts	482
5		
6	Pritchard Ex. 1479	
7	Project Topgun Preliminary	
8	Results, May 26, 1988	484
9		
10	Pritchard Ex. 1480,	
11	Airbus Status, December, 1988	490
12		
13	Pritchard 1481	
14	Product Development Conference,	
15	Montreal, August 22-24, 1990	499
16		
17	Pritchard 1482	
18	Tobacco Strategy Review Team	
19	Meeting, November 30, 1990	500
20		
21	Pritchard 1483	
22	Visit to B&W Louisville,	
23	Coordination of R&D,	
24	January 16-17, 1990. A.L.	
25	Heard	502

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1 RAYMOND J. PRITCHARD
2 having been previously duly sworn, was examined
3 and testified as follows:

4 EXAMINATION

5 BY MR. McGANN:

6 Q. Mr. Pritchard, are you ready to
7 start today?

8 A. I am.

9 Q. Let me begin by reviewing with you
10 your background up to the time you joined
11 Brown & Williamson.

12 Did you serve in the military after
13 you left school?

14 A. Yes, I did.

15 Q. What branch of the service?

16 A. The Army, Royal Artillery.

17 Q. What years did you serve in the
18 military?

19 A. Nineteen fifty to 1952.

20 Q. And the Royal Artillery is the
21 British Army?

22 A. That's correct.

23 Q. Where did you serve?

24 A. I trained in the United Kingdom,
25 but after I was commissioned, I went to the canal

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1 zone in Egypt.
2 MR. MCGANN: The reporter would
3 like to go off the record for a moment, technical.
4 (Discussion off the record.)
5 Q. Mr. Pritchard, what year did you
6 leave military service?
7 A. Nineteen fifty-two.
8 Q. And you joined B.A.T. Co. at that
9 time?
10 A. I joined -- I left in August, '52.
11 I joined British-American Tobacco in November,
12 1952.
13 Q. Now, I understand that you went
14 through some training in England, and then were
15 posted to Nigeria; is that correct?
16 A. That's correct.
17 MS. WIVELL: Objection.
18 Q. What company did you work for in
19 Nigeria?
20 A. Nigerian Tobacco Company.
21 Q. What was your position there?
22 A. I was a trainee in the leaf
23 department.
24 Q. What's the -- what is the leaf
25 department?

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1 A. It's the department that procures
2 tobacco for the manufacture of cigarettes.

3 Q. How long did you train in the leaf
4 department in Nigeria?

5 A. Until the beginning of January,
6 1954 -- from August, '53, to January, '54.

7 Q. Was your next assignment with a
8 B.A.T. Co. Company in Indonesia?

9 A. I went in January, '54, and joined
10 B.A.T., Indonesia, Limited.

11 Q. What was your position at B.A.T.,
12 Indonesia?

13 A. I was leaf assistant.

14 Q. Is that within the leaf department?

15 A. That's within the leaf department.

16 Q. Now, how long were you in
17 Indonesia?

18 A. From 1954 until August, 1964.

19 Q. Can you briefly trace for us your
20 positions during the time you were in Indonesia?

21 A. From being a leaf assistant, I
22 became a leaf -- assistant leaf manager looking
23 after an area.

24 In 1957, I became responsible
25 for -- as the manager for the leaf department, and

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1 I think it was 1962, I became a director of that
2 company.

3 Q. What were your -- I'm sorry.

4 A. As leaf director.

5 Q. How many directors did B.A.T.,
6 Indonesia have?

7 A. Finance director, marketing
8 director, leaf director, production director,
9 company secretary, who was also B.A.T. director,
10 and the chairman.

11 Q. And does that mean you sat on the
12 board?

13 A. I sat on the board.

14 Q. What does it mean when you say you
15 were the leaf director? What does that mean?

16 A. It meant I was responsible for
17 coordinating all the purchases of tobacco for use
18 by the company.

19 Q. After your time at Indonesia, I
20 understand that you went to work in the United
21 States for a period of time?

22 A. I came to the United States in
23 August, '64. A company in Indonesia had been
24 taken over by the government, been confiscated, so
25 we all had to leave, and I came to the United

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1 States to visit the tobacco markets.

2 The intention was that at the end
3 of that period in the United States, I would
4 return to a position with B.A.T. --

5 British-American Tobacco -- in Milbourne, London.

6 Q. What company did you work for while
7 you were in the United States?

8 A. I was secunded to Export Leaf
9 Tobacco Company, which was based in Richmond,
10 Virginia.

11 Q. What does "secunded" mean?

12 A. Essentially, secunded, transferred,
13 but not with a management position. It's really a
14 familiarization.

15 Q. Intended to be temporary?

16 A. Temporary.

17 Q. What was the business of export
18 leaf tobacco?

19 A. Purchasing tobacco for
20 British-American Tobacco companies, including
21 Brown & Williamson, and also, it had a small
22 export business to non-B.A.T. companies.

23 Q. After your time in the United
24 States, did you go work for a company in India?

25 A. I did.

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1 Q. Which company?

2 A. I went to become the general
3 manager of Indian Leaf Tobacco Development
4 Company.

5 Q. What year was that?

6 A. That was 1965.

7 Q. And what was the business of Indian
8 Leaf Tobacco Development Company?

9 A. Purchasing tobacco for use,
10 primarily by the -- by two companies in India,
11 India Tobacco Company -- I'm sorry, its name at
12 that time was Imperial Tobacco Company of India,
13 and the Vazir Sultan Tobacco Company, and also,
14 there was -- it had an export business.

15 Q. Was -- was Indian Leaf Tobacco
16 Development Company affiliated with B.A.T. Co.?

17 A. It was a branch of a company that
18 was owned by B.A.T. Co.

19 Q. Did you have other positions in
20 India?

21 A. Subsequently, I was transferred to
22 Imperial Tobacco Company of India as its leaf
23 director.

24 Q. Did you serve on the board of the
25 Indian Tobacco Company?

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1 A. As it was then, it was the Imperial
2 Tobacco Company.

3 Q. I'm sorry.

4 A. And I served on the board of that
5 company.

6 Q. And was there a relationship
7 between the Imperial Tobacco Company in India and
8 B.A.T. Co.?

9 A. Yes. It was a subsidiary at that
10 time.

11 Q. Now, after your time in India, I
12 understand you went to work in Brazil; is that
13 correct?

14 A. That's correct.

15 Q. What company did you go to work for
16 in Brazil?

17 A. I went to work for a company, the
18 Cigarros Souza Cruz -- I'll write this out for you
19 later, if you want.

20 Q. What was your position at Souza
21 Cruz -- can I call it Souza Cruz, by the way?

22 A. Yes, of course.

23 Q. What was your position at Souza
24 Cruz?

25 A. I went to the tobacco business
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1 there, so I was the export manager.

2 Q. What year was this?

3 A. This was 1970.

4 Q. Did you later hold positions within
5 Souza Cruz in Brazil?

6 A. I did.

7 Q. Would you describe those?

8 A. I became -- shortly after my
9 arrival, I became the leaf manager of Souza Cruz,
10 and I think it was about 1972, maybe '73, I became
11 a director of that company.

12 Q. Was Souza Cruz affiliated with
13 B.A.T. Co.?

14 A. It was a subsidiary of B.A.T. Co.
15 with local part of the shareholding.

16 Q. What do you mean when you say with
17 local shareholding?

18 A. Twenty percent of the total shares
19 of Souza Cruz were held locally by local
20 shareholders -- Brazilian shareholders.

21 Q. Was your position on the board of
22 Souza Cruz the seniormost position you held while
23 you were in Brazil?

24 A. No. I later became responsible for
25 the cigarette company, including its tobacco

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1 growing operations, whatnot -- purchasing
2 operations.

3 Q. What was the cigarette company
4 called?

5 A. Cigarette company was called
6 Company Cigarros Souza Cruz, but a holding company
7 had been established because of the
8 diversification activities, and that company was
9 called Company of Industrio and Commercio, Souza
10 Cruz.

11 Q. And did you have a position with
12 that holding company?

13 A. Yes, I was the director of that
14 holding company.

15 Q. And as director of that holding
16 company, your responsibilities were what?

17 A. My responsibilities were to
18 participate in the board meetings, but I was
19 representing the cigarette tobacco company on that
20 board.

21 Q. All right. After your -- have we
22 covered your positions in Brazil?

23 A. Yes.

24 Q. And after your time at Brazil, did
25 you then return to work at B.A.T. Co. in England?

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1 A. I returned to B.A.T. Co. in the
2 United Kingdom in 1977.
3 Q. Now, at that time, in 1977, had
4 B.A.T. Industries become the parent of B.A.T. Co.?
5 A. It had, indeed.
6 Q. And when did B.A.T. Industries
7 become the parent of that company?
8 A. I think that took place in 1976.
9 Q. So, just prior to your return to --
10 A. Correct.
11 Q. What was your position at B.A.T.
12 Co. when you arrived in 1977?
13 A. I was the leaf director.
14 Q. Can you describe briefly what
15 B.A.T. Co.'s cigarette business was in 1977?
16 Where did it sell cigarettes?
17 A. B.A.T. Co. itself did not sell
18 cigarettes, B.A.T. Co. itself was the holding
19 company for the overseas tobacco operations. It
20 had two factories in the United Kingdom which
21 exported cigarettes through a marketing operation.
22 It did not sell cigarettes at that time in the
23 United Kingdom.
24 Q. Did it make cigarettes in these
25 factories for sale in the United States?

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1 A. Some were, I believe, sold to the
2 United States, although I wasn't aware of it at
3 that time.

4 Q. What was the relationship in 1977
5 between B.A.T. Co. and Brown & Williamson?

6 A. In 1977, because of the B.A.T.
7 Industries having been formed, Brown & Williamson
8 reported directly into B.A.T. Industries. It had
9 no direct link with B.A.T. Co.

10 Q. Okay. You testified you came back
11 as the leaf director at B.A.T. Co. That means you
12 sat on the board of B.A.T. Co.?

13 A. I did.

14 Q. Did your responsibilities change
15 later?

16 A. They did.

17 Q. Describe that.

18 A. I later assumed responsibility
19 for -- the responsibilities of the director
20 responsible for manufacturing, we call production.

21 Q. Was that in addition to your leaf
22 responsibilities?

23 A. That was in addition to my leaf
24 responsibilities, and that also encompassed the
25 purchasing arm of B.A.T. Co., that is, the

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1 acquisition materials for use and machinery for
2 companies around the world, as well as the United
3 Kingdom factories.

4 Q. Was there a -- did it change again?

5 A. It changed again very briefly. The
6 research director retired or left the company at
7 the end of 1984, and I took -- assumed his
8 responsibilities for -- the research manager
9 reported to me until I came to Brown & Williamson
10 in May, 1985.

11 Q. Let me ask you about that. Were
12 the research responsibilities that you assumed in
13 addition to your existing leaf manufacturing and
14 purchasing responsibilities on the B.A.T. Co.
15 board?

16 A. That's correct; that's correct.

17 Q. What time period, if you remember,
18 were you responsible as the research director?

19 A. Well, I never really was
20 responsible as a research director, because I'm
21 not a scientist, but the manager for research
22 reported to me so that I could make presentations
23 to the board and represent the research
24 organization on the board.

25 Q. What time period did that --

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1 A. We are talking January, '85, until
2 I came to Brown & Williamson in May, '85, a period
3 of just about four months.

4 Q. And during your time at B.A.T. Co.,
5 did you become deputy chairman of the board?

6 A. I did, indeed.

7 Q. When was that?

8 A. I think that was 1983, but I can't
9 be precise about it. I think it was 1983.

10 Q. Okay. And in May, 1985, you were
11 appointed chairman and CEO of Brown & Williamson?

12 A. That is correct.

13 Q. And you served in that position
14 until 1993?

15 A. Until the end of March, 1993, yes.

16 Q. What was the relationship between
17 B.A.T. Industries and B.A.T. Co.?

18 A. B.A.T. Industries was the parent
19 company, the holding company.

20 Q. I'm sorry, did you say --

21 MR. MCGANN: Oh, I'm reading the
22 transcript. This is off the record. I thought
23 you had missed something.

24 Did B.A.T. Industries manufacture
25 cigarettes?

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1 A. I'm sorry?
2 Q. Did B.A.T. Industries manufacture
3 cigarettes?
4 A. No.
5 Q. Did it own machinery to make
6 cigarettes?
7 A. No.
8 Q. Did it distribute cigarettes?
9 A. No.
10 Q. Did it market cigarettes?
11 A. No.
12 Q. Did it conduct research --
13 A. No.
14 Q. -- into tobacco?
15 A. No.
16 Q. Did it conduct research into the
17 smoking and health issues?
18 A. No.
19 Q. What did B.A.T. Industries do?
20 A. B.A.T. Industries was the -- the
21 holding company. As such, it issued guidelines to
22 the various operating groups, principally,
23 financial guidelines.
24 Q. Can you elaborate on that; for
25 example, describe for the jury what financial
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1 guidelines were.

2 A. Financial guidelines were the
3 expected return on investment, principally, profit
4 targets.

5 It also controlled, to the extent
6 that it was above the delegated authority, major
7 capital expenditure if a company wished to make
8 very large investments. These would normally
9 require approval of the board, because it was
10 major utilization of capital.

11 Q. Did it do anything else?

12 A. It made acquisitions and sold
13 companies.

14 Q. When you say "made acquisitions,"
15 you're talking about acquisitions of companies?

16 A. Acquisitions of companies, yes.

17 Q. Did it run the tobacco business at
18 B.A.T. Co.?

19 A. No.

20 Q. Who ran the tobacco business at
21 B.A.T. Co.?

22 A. The board of B.A.T. Co.

23 Q. We saw earlier in this deposition
24 Exhibit 317, which is a document entitled "Smoking
25 Considerations on Smoking and Health Policy."

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1 Let me hand that to you. It was --
2 appears to have been circulated by P.J. Ricketts
3 from B.A.T. Industries.

4 Do you recall that?

5 A. Yes, I do.

6 Q. Do you count that among the
7 guidelines issued by B.A.T. Industries when you
8 were testifying about guidelines?

9 A. Yes, I do.

10 Q. And how was that -- how was that
11 handled at Brown & Williamson?

12 A. Well, I wasn't at
13 Brown & Williamson when this was issued, but I
14 imagine -- or I'm sure it was handled in the same
15 way that it was handled in B.A.T. Co. and the
16 other operating companies.

17 Q. Well, describe that.

18 A. And that is that this is a
19 guideline, and this basically pointed out any
20 pronouncements in the smoking and health area had
21 to be factually and scientifically correct.

22 Q. While you were at
23 Brown & Williamson, who made decisions at
24 Brown & Williamson regarding whether statements
25 were factually and scientifically correct?

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1 A. Brown & Williamson.
2 Q. Did B.A.T. Industries make those
3 decisions?
4 A. No, Brown & Williamson made them.
5 Q. Are you familiar with a company
6 called B.A.T.U.S. or B-A-T-U-S?
7 A. I am indeed, yes.
8 Q. What was B.A.T.U.S.?
9 A. B.A.T.U.S. was formed -- I'm not
10 sure whether it was formed at the same time as the
11 other groups -- as the holding company for the
12 investments in the United States, which
13 included --
14 Q. Whose investments in the United
15 States?
16 A. B.A.T. Industries' investments.
17 Q. Okay. Do you know approximately
18 when B.A.T.U.S. was formed?
19 A. It was probably in the late '70s,
20 early '80s. I've got a feeling it must have been
21 in the early '80s.
22 Q. What -- is your recollection it was
23 after the time that B.A.T. Industries became --
24 A. It was certainly after the time
25 that B.A.T. Industries became B.A.T. Industries.
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1 Q. Okay. Try to let me finish my
2 questions so that we don't --

3 A. Okay.

4 Q. -- talk over the reporter's ability
5 to keep up with us.

6 Do you understand why B.A.T.U.S.
7 was formed?

8 A. B.A.T.U.S. was formed because of
9 the growing investments in the United States.

10 There had been prior to the
11 formation of B.A.T.U.S. a number of acquisitions
12 by Brown & Williamson which had formed a company
13 called "Brown & Williamson Industries" or had
14 become "Brown & Williamson Industries," and these
15 were very small ventures, to my knowledge, in the
16 early days.

17 Subsequently, more major
18 acquisitions were made, supermarkets, and
19 subsequently, department stores, Marshall Fields,
20 Sachs Fifth Avenue, Iveys, various others.

21 In addition, there was a paper
22 company in Appleton, Wisconsin, and this was
23 obviously getting unwieldy, so B.A.T.U.S. was
24 formed to handle these investments, these
25 companies in the United States, and it acted as a

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1 holding company for those.

2 Q. Did B.A.T. Industries have holding
3 companies of a similar nature in other places in
4 the world?

5 A. They did, in Brazil and in Canada,
6 a holding company was formed, and also in Germany.

7 Q. What was the holding company in
8 Brazil called?

9 A. The holding company in Brazil
10 was --

11 Q. Is it the holding company you
12 testified about earlier?

13 A. That's correct, Company Souza Cruz
14 Industrio and Commercio.

15 Q. Did that company hold interests
16 other than tobacco?

17 A. It did, in paper, fruit juice, fish
18 and various other small investments.

19 Q. And these were separate companies
20 owned by the holding company?

21 A. These were separate companies owned
22 by the -- by the holding company.

23 Q. One of the companies was a tobacco
24 company?

25 A. One of the companies was a tobacco
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1 company, yes.
2 Q. What was the holding company in
3 Germany called?
4 A. Interversa.
5 Q. And did it hold diversified
6 interests in Germany?
7 A. Yes.
8 Q. Do you know happen to know what
9 they were, in general?
10 A. Yes. They had an automobile parts
11 manufacturing company. It had an investment in
12 restaurants and in wine bars, it had an investment
13 in hotels. Those are the major ones that I
14 recollect.
15 Q. And was one of its investments in a
16 tobacco company?
17 A. And it had a tobacco company.
18 Q. Is that sometimes referred to as
19 B.A.T.C.F.?
20 A. B.A.T.C.F., that's correct.
21 Q. What was the holding company called
22 in Canada?
23 A. Imasco.
24 Q. Did it, too, have diversified
25 interests?

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1 A. It did, one of which was Canada
2 Trust, which was an insurance company.

3 Q. And one of the companies it owned
4 happened to be a tobacco company?

5 A. And the other investment was a
6 tobacco company, which was Imperial Tobacco
7 Company of Canada.

8 Q. Was there a holding company in
9 Australia?

10 A. There was.

11 Q. What was --

12 A. It was called Amatil, and it had an
13 investment in tobacco company, cattle, cattle
14 ranches, sheep, fisheries. I think that was --
15 those were their principal holdings.

16 Q. Okay. Well, let's come back to the
17 United States.

18 What was B.A.T.U.S.'s relationship
19 with B.A.T. Industries?

20 A. B.A.T.U.S. as the holding company,
21 reported directly into B.A.T. Industries and was
22 responsible for the relationship.

23 Q. What relationship?

24 A. Between B.A.T.U.S. and B.A.T.
25 Industries, as one holding company to another

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1 holding company.

2 Q. What was B.A.T.U.S.'s relationship
3 with Brown & Williamson?

4 A. B.A.T.U.S.'s relationship with
5 Brown & Williamson was as a holding company. It
6 issued guidelines to Brown & Williamson, again,
7 principally in the financial area, and
8 Brown & Williamson reported directly to B.A.T.U.S.

9 Q. Did B.A.T.U.S. make cigarettes?

10 A. No.

11 Q. Did B.A.T.U.S. distribute
12 cigarettes?

13 A. No.

14 Q. Did they market cigarettes?

15 A. No.

16 Q. Did they own machinery to
17 manufacture cigarettes?

18 A. No.

19 Q. Did they conduct research into
20 tobacco?

21 A. No.

22 Q. Did they conduct research into
23 smoking and health?

24 A. No.

25 Q. Who ran the tobacco business in the
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1 United States?

2 A. The Brown & Williamson.
3 MS. WIVELL: Objection, vague.

4 A. The Brown & Williamson board.

5 Q. Did B.A.T.U.S. run
6 Brown & Williamson's tobacco business?

7 A. No.

8 Q. You testified during this
9 deposition about a Mr. Frigon at B.A.T.U.S.

10 A. I did.

11 Q. Do you recall that? Who is -- is
12 it Henry Frigon?

13 A. Yes.

14 Q. Who is Henry Frigon?

15 A. When I first arrived in
16 Brown & Williamson in May, '85, he was the chief
17 financial officer at B.A.T.U.S. He had joined
18 B.A.T.U.S., I think, possibly two or three years
19 earlier, I'm not sure how long. He was also the
20 chairman designate and he became the chair -- and
21 he became the CEO of B.A.T.U.S. at the end of
22 1985.

23 Q. And did he remain in that position
24 as CEO of B.A.T.U.S.?

25 A. He remained --

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1 Q. Well, how long was he CEO of
2 B.A.T.U.S.?

3 A. I think he was CEO from the end of
4 '85, which would have been the beginning of '86,
5 until B.A.T.U.S. was disbanded in 1990.

6 Q. What was Mr. Frigon's background
7 before coming to B.A.T.U.S.?

8 A. He was -- he was essentially a
9 financial man.

10 Q. Did he have any background in the
11 tobacco business?

12 A. None.

13 Q. You testified that B.A.T.U.S. was
14 disbanded at some point, 1990?

15 A. Yes.

16 Q. Why was it disbanded?

17 A. B.A.T. Industries had made a
18 decision that it would concentrate its efforts in
19 two areas, tobacco and financial services, and so
20 it went -- proceeded to sell off all the
21 businesses that did not, in fact, fit into those
22 two areas. That involved the sale of the retail
23 businesses, the Sachs Fifth Avenue, the Marshall
24 Fields, et cetera, in the United States.

25 The paper company, Appleton, B.A.T.
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1 divested of its paper holdings through, in fact,
2 issuing shares to its shareholders in a new
3 company called Wiggins Teape, Appleton.

4 So, that left nothing in the United
5 States, except for Brown & Williamson and the
6 Farmers Insurance Company, which had been acquired
7 in the interim.

8 Q. And, so, how does that divestiture
9 that you just described relate to the disbanding
10 of B.A.T.U.S.?

11 A. Well, the disinvestment meant that
12 there was no need for a holding company, because
13 B.A.T. had a -- just its two arms, tobacco and
14 financial services, and both reported directly
15 into B.A.T. Industries.

16 Q. Do you know if B.A.T.U.S. as a
17 technical matter continued to exist after 1990?

18 A. I think it continued for a while,
19 because of the circumstances surrounding the
20 winding up of a company such as tax and matters
21 like that.

22 Q. But after the divestiture that you
23 described, B.A.T.U.S. ceased supervising -- or
24 issuing guidelines, I should say, to
25 Brown & Williamson?

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1 A. Yes, that's correct, because there
2 were no stock.

3 Q. How about decisions regarding
4 public statements on smoking and health issues;
5 did Brown & Williamson take guidance from
6 B.A.T.U.S. on what to say in that regard?

7 A. No.

8 Q. How did Brown & Williamson make
9 decisions in that regard?

10 A. It arrived at its own decisions,
11 bearing in mind that it was required to be
12 factually and scientifically correct and taking
13 due cognizance of the environment in which we
14 operated.

15 Q. You've testified during the course
16 of your deposition about a facility called GR&DC?

17 A. I did.

18 Q. And is that the Group Research and
19 Development Center?

20 A. It was the Group Research and
21 Development Center.

22 Q. What was GR&DC?

23 A. Do you want me to go back to the
24 beginning?

25 Q. Yes, please, just briefly to set
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1 the stage here. Tell the jury what GR&DC is.

2 A. Prior to 1955, which was just about
3 the time I joined British-American Tobacco
4 Company, there was no real scientific research
5 being conducted. It was essentially quality
6 control, although, there were minor experiments
7 being carried out on tobacco and the cigarette
8 product.

9 In 1955, the board of B.A.T.
10 decided that it would set up a true research
11 center -- research and development center to
12 service the entire group, and that was brought
13 about in Southampton. In fact, it was on the same
14 site as the cigarette factory that was based in
15 Southampton.

16 Q. Let me interrupt you there. You
17 just testified that the board of B.A.T. --

18 A. British-American Tobacco Company.

19 Q. Okay. And the location of this
20 research facility was Southampton, England?

21 A. That's correct.

22 Q. As we know from your testimony,
23 there were changes made at GR&DC in the mid 1980s;
24 is that correct?

25 A. That's correct.

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1 Q. Prior to that time, were there
2 changes made to the B.A.T. Co. business
3 organization around the world?

4 A. Yes.

5 Q. What were those changes?

6 A. Those changes were that what came
7 to be referred to as the CAC Companies, that's --
8 CAC stood for Chairman's Advisory Conference, and
9 that was the formation of the holding companies in
10 the United States, Canada, Brazil, Germany and
11 Austrailia.

12 Q. And in -- these holding companies
13 had not existed prior to the late '70s or early
14 '80s?

15 A. That's correct.

16 MS. WIVELL: Objection.

17 Q. What was your understanding about
18 the reasons for this change in the business
19 organization?

20 A. Well, the changes in the business
21 organization -- I'm sorry, could you clarify?

22 Q. Yes.

23 A. Which business organization?

24 Q. You've described the formation of
25 holding companies around the world --

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1 A. Yeah.

2 Q. -- and the creation of what was
3 referred to as the CAC Companies?

4 A. Correct.

5 Q. What was your understanding was the
6 reason for those changes having been made at
7 B.A.T. Co.? Why is it that they did this?

8 MS. WIVELL: Objection.

9 A. B.A.T. Co. didn't do this, B.A.T.
10 Industries did -- formed it.

11 Q. Oh, thank you.

12 A. Formed the CAC Companies.

13 Q. Okay. Thanks for the
14 clarification.

15 Why is it that in this time period,
16 the late 1970s/early 1980s, there was a
17 reorganization of the business interests?

18 A. I think, as I stated earlier,
19 primarily because of the acquisitions that were
20 made outside of the tobacco businesses, which
21 brought about the formation of these holding
22 companies.

23 Q. Now, at the B.A.T. Co. level, was
24 there a change in the business organization around
25 the world?

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1 A. Yes, there was.

2 Q. What was that change?

3 A. At the time that I went back to the
4 United Kingdom in 1977, the way that the tobacco
5 businesses were managed by B.A.T. Co., those that
6 it was responsible for at that time, had basically
7 remained unchanged since the formation of the
8 company in 1902 where the world was carved up into
9 territories, and each territory had a territorial
10 director, and these were directors in addition to
11 the so-called functional directors, that is, the
12 leaf director, marketing director, production
13 director, and the territorial director who sat on
14 the board of B.A.T. Co. had a team working for
15 him, which consisted of a leaf expert, production
16 expert, marketing expert, financial advisor. I
17 think that was most of it, and these people formed
18 the team for -- and he had a personal assistant --
19 and these people basically monitored the
20 activities and provided advice to the companies
21 for which the territorial director was
22 responsible, and the territories tended to be
23 regional, Southeast, Asia, Africa, South America,
24 parts of South America, Caribbean, and so on.

25 Q. And when did that organization

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1 change?

2 A. That started to change -- I
3 believe, in 1982, it was proposed that because of
4 the tremendous advances that had been made within
5 the various territories and the companies within
6 those territories, that, really, the so-called
7 advisors had become redundant, because the
8 competency was already there within the operating
9 companies within the territories, so, in fact,
10 those functions were -- the teams, apart from
11 possibly the financial advisor, disappeared.

12 Q. What are the -- to be precise, what
13 are the teams you're referring to?

14 A. The teams I'm referring to are the
15 territorial teams.

16 Q. And those were -- those had been
17 based in --

18 A. And they had been based in the
19 headquarters in Millbank.

20 Q. Did there come a change in the
21 research organization following this?

22 A. Uh-huh. There did, indeed.

23 Q. And this again is the GR&DC
24 facility?

25 A. This is GR&DC.

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1 Q. When did this occur?

2 A. It was initiated towards the end of
3 1984, beginning of 1985, and this was initiated
4 for a number of reasons.

5 Firstly, following the formation
6 and, in fact, leading up to the formation of the
7 so-called CAC Companies, the tobacco companies
8 within those organizations had greatly expanded
9 their own R&D facilities to address the needs of
10 their own markets, and the markets were all
11 different.

12 Cigarettes sold in the United
13 States are vastly different to cigarettes sold,
14 for example, in Canada.

15 Q. Well, let's talk about the first
16 part of that for a minute.

17 Which companies owned R&D
18 facilities that had, as you say, greatly expanded?
19 Which ones are you referring to?

20 A. Brown & Williamson, B.A.T.C.F. in
21 Germany, Souza Cruz in Brazil, and to a lesser
22 extent, Canada and Austrailia.

23 Q. And how is it that the expansion of
24 these research laboratories at these companies
25 brought about a need to reorganize GR&DC in

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1 Southampton?

2 A. Well, principally because there was
3 overlap in research, and GR&DC itself was lacking
4 a specific market, which if you're in a research
5 area, it's important to know what your end market
6 is.

7 Q. That might not be clear. What is
8 it you mean when you say GR&DC lacked a specific
9 market?

10 A. Well, it wasn't attached to any
11 specific company, it was operated by B.A.T. Co.
12 for the group as a whole, but it was respondent to
13 everyone, and one of the features that led up to
14 the change in the function of GR&DC was that it
15 tended to respond to markets that may not be
16 particularly significant, because it is human
17 nature to respond to those who encourage you most,
18 and those without real R&D facilities were the
19 ones who liked to call most upon it, but
20 principally, it was because of the fact that it
21 really had no specific market to which to address
22 its efforts, as Brown & Williamson did, as Germany
23 did and as Canada did and Souza Cruz did.

24 Q. And what, in your judgment, was the
25 effect on the research focus at GR&DC as a result

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1 of it lacking a connection with a specific market?

2 A. I think it lacked focus, and I
3 think that many of the projects that were under
4 investigation or being carried out in GR&DC,
5 because it had no end market to which to respond,
6 tended to be somewhat esoteric research.

7 Q. You started to say a few moments
8 ago that there were differences in the markets
9 that GR&DC serviced?

10 A. Yes.

11 Q. Is that correct? What differences
12 are you referring to?

13 A. Referring to, in fact, the
14 cigarette itself. The cigarettes in the United
15 States are -- they are both blended, which means
16 that they consist of more than one type of
17 tobacco. In the United States, that's burley
18 tobacco, flue-cured tobacco Oriental tobacco, but
19 also, unlike in some countries, one is allowed to
20 add additives, and the manufacturing techniques
21 are different.

22 In Germany, it's a different
23 product again, whereas, it consists of the three
24 types of tobacco that I referred to in talking
25 about Brown & Williamson, but the German product

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1 contains a very, very much higher percentage of
2 Oriental tobacco.

3 Q. Higher than what you would find in
4 the United States?

5 A. Much higher than what you would
6 find in the United States, and a much lower level
7 of additives.

8 United Kingdom-type products, which
9 is what you find in Canada, and, in fact, most of
10 the territories in which B.A.T. operated tend to
11 be U. K.-type products.

12 Q. And what is -- how would you
13 characterize those types?

14 A. Those are basically all flue-cured
15 tobacco with no additives other than humectants,
16 because in Britain, you were not allowed to do
17 this, and so that technique tended to carry over
18 into the overseas territories of B.A.T. Co.
19 because they tended to be places that had belonged
20 to the former British empire.

21 Q. And how did these differences
22 contribute to the need to reorganize GR&DC?

23 A. Well, because of the different
24 nature of the product, the research being carried
25 out in Germany, Brazil -- Brazil is different

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1 again, but I presume you don't want me to go into
2 that.

3 Q. You mean, a different type of
4 cigarette?

5 A. It's a different type of cigarette
6 again.

7 Q. Different from the United States?

8 A. Different from the United States.

9 Q. Okay.

10 A. Their research was directed to how
11 they could improve and bring about change in their
12 own products.

13 Q. Whose -- and when you say "their
14 research," you're talking about GR&DC?

15 A. I'm talking about the research in
16 the CAC Companies.

17 So it was felt that as the standard
18 of excellence had improved so much in all these
19 companies, that what should be done was that GR&DC
20 should, in fact, become the research operation for
21 B.A.T. Co. alone, and it was therefore reorganized
22 to -- and linked up to what was the B.A.T. Co.
23 operating arm out of the U. K., which was
24 B.A.T.U.K.E., which stood for B.A.T.U.K. & Export.

25 MS. WIVELL: Excuse me, could we
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1 take a break?

2 MR. MCGANN: Sure.

3 (Brief recess.)

4 Q. Before we went off the record,
5 Mr. Pritchard, you were describing some of the
6 reasons that brought about a change in GR&DC and
7 some of the differences in the markets it served.

8 I want to ask you about the
9 regulatory climate in the different markets that
10 it served. Were there differences there, too?

11 A. There were, indeed, yes.

12 Q. And can you summarize what those
13 differences were?

14 A. Well, basically, each -- each area
15 of each country had its own views as to what
16 does -- regulatory things should be and the
17 individual companies needed to address them in the
18 light of that.

19 Q. Were there particular differences
20 between the regulatory environment in the United
21 States, on the one hand, and the United Kingdom or
22 Canada, on the other hand?

23 A. I think there were. I can't really
24 be specific, but I know in the United Kingdom,
25 there was the Hunter Committee, which had -- had

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1 different views to some of those in the United
2 States, and also, there were different views in
3 Canada.

4 (Pritchard Exhibit 1292 marked for
5 identification.)

6 Q. The reporter has handed you a
7 document that's been marked as Exhibit 1292.

8 Do you see that?

9 A. I do.

10 Q. It's headed --

11 A. I do.

12 MS. WIVELL: Before you go on, I
13 would like to make an objection to this document.

14 Number one, it was not properly
15 designated in the time required under the Court's
16 deposition order, and, in fact, I do not find it
17 among those items which were designated at all for
18 use by counsel when he did in an untimely fashion
19 provide me with copies of the exhibits he intended
20 to use, so I just want to state that for the
21 record and object to its use.

22 MR. MCGANN: The list of Bates
23 numbers was faxed to you last Friday.

24 MS. WIVELL: No, sir, it was not.

25 MR. MCGANN: Which was -- the Bates
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1 list was faxed to you last Friday, which was five
2 days ago, and the hard copies of documents were
3 overnighted to you and arrived at your office on
4 Saturday. This particular document was designated
5 by you for use in this deposition.

6 MS. WIVELL: Well, I would like to
7 note for the record that we did not receive any
8 predesignation of documents from counsel until
9 late Saturday, when I received a Federal Express
10 package that did not include this document.

11 The Court order says, "Any
12 documents that counsel intends to use in this
13 deposition are to be predesignated." This was not
14 predesignated, so I object to its use.

15 MR. MCGANN: Well, it was
16 predesignated by you.

17 MS. WIVELL: It wasn't
18 predesignated by you, though, sir.

19 MR. MCGANN: Okay.

20 MS. WIVELL: And the Court order
21 requires you to do so.

22 MR. MCGANN: Okay. I think you're
23 wrong on two counts. One is, I believe I did
24 designate it, and during a break, I'll go pull out
25 my designation to determine that. You may be

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1 right on that, but it was designated for this
2 deposition either way, and the fax was sent to you
3 on Friday, and I'll be happy to go get that during
4 a break and make it part of the record.

5 MS. WIVELL: Well, I just want the
6 record to reflect, I have not seen any fax, I have
7 not been told any fax arrived, and I did raise
8 with Mr. McGann earlier in the deposition the fact
9 that I had received an untimely designation on
10 Saturday, which is not -- does not comport with
11 the court's orders, but we can go on.

12 MR. MCGANN: I don't know what you
13 were told or saw, obviously, I can only show what
14 my office faxed to yours, and I'll attach it
15 later.

16 Q. Okay. What is -- I forgot --
17 strike that. Let me describe this document,
18 Mr. Pritchard. It's numbered -- Exhibit 1292 and
19 it's headed "Research and Development meeting of
20 the heads of the CAC Tobacco Companies, London,
21 7/8/March of 1985.

22 Do you see that?

23 A. I do.

24 Q. And it's authored by, if we turn to
25 page 7, Alan Heard, March, 1985; correct?

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1 MS. WIVELL: Objection, leading.
2 A. Yes.
3 Q. Have you seen this document before?
4 A. Yes, I have.
5 Q. Who authored this document?
6 A. Alan Heard.
7 Q. What is this document?
8 A. It's a meeting of the heads of the
9 CAC Companies.
10 Q. What was the purpose of this
11 particular meeting in March, 1985?
12 A. It was the plans for GR&DC.
13 Q. Can you quickly tell us who the
14 attendees at this meeting were and who they
15 represented?
16 A. The first one, Mr. Bruell, he was
17 the -- at this time, the chairman of B.A.T. Co.
18 The second person was myself.
19 Q. And you were a director of B.A.T.
20 Co.?
21 A. And I was the deputy chairman and a
22 director of B.A.T. Co.
23 The third person is Mr. Crashaw.
24 He was the chairman of Souza Cruz. Mr. Jon Louie
25 Mercier, Chairman of Imperial Tobacco Company.
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1 Q. In Canada?

2 A. In Canada. Mr. Von Specht was the
3 chairman of B.A.T.C.F. in Germany. Mr. Sandefur
4 was the president of Brown & Williamson.

5 Mr. Smith was the chairman of the
6 Australian Tobacco Company. Mr. Thorpe was the
7 managing director of B.A.T.U.K.E., B-A-T-U-K-E,
8 and Mr. Alan Heard was the research coordinator.

9 Q. Where?

10 A. For B.A.T. Co.

11 Q. And, in general, what does this
12 document discuss?

13 A. This document, as I recall,
14 discusses the reorganization of GR&DC and how
15 group research programs would be coordinated and
16 formulated.

17 Q. Had a reorganization taken place
18 yet?

19 A. It has.

20 Q. It had?

21 A. It has. It hasn't --

22 Q. I'm sorry.

23 A. Not as of March.

24 Q. I'll start again.

25 A. No.

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1 Q. As of the time of this meeting,
2 March, 1985, had the reorganization taken place
3 yet?

4 A. No, it had not.

5 Q. Okay. Let me ask you to turn to
6 the second page. There's a heading number one,
7 "Biological Research."

8 Do you see that?

9 A. I do.

10 Q. Now, what was your understanding of
11 the kind of biological research that was going on
12 at GR&DC at this time?

13 A. To the best of my recollection, the
14 biological research consisted of smoke inhalation
15 studies with, I think, rats, and also in vitro
16 tests using particularly the Ames test.

17 Q. This document states under
18 biological research, quote, "To be terminated at
19 GR&DC except for a two-man team for Ames
20 testing."

21 Do you see that?

22 A. I do.

23 Q. Who was consulted about the
24 decision to terminate internal inhalation
25 research?

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1 A. It was my understanding, it was all
2 the heads of the R&D.

3 Q. At the various companies?

4 A. At the various companies and in
5 GR&DC itself.

6 Q. Were these gentlemen scientists?

7 A. They were scientists.

8 Q. Now, you referred to the fact that
9 Ames testing -- I'm sorry, you said In vitro
10 testing was going on --

11 A. Yes.

12 Q. -- at the time?

13 A. Yes.

14 Q. Does this document indicate that
15 Ames testing would continue to take place at some
16 of the research facilities?

17 MS. WIVELL: Objection, leading.

18 A. I think it does, Germany and
19 Canada.

20 Q. Was -- how about at GR -- how about
21 at the facility at Southampton?

22 A. And also at Southampton.

23 Q. Who -- let me show you what was
24 previously marked as Exhibit 1449 in this
25 deposition, which is a report by Richard Binns on

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1 a visit to the U.S.A. and Canada in 1979. Do you
2 recall this document from the deposition?

3 A. Yes.

4 Q. Had you ever seen this document
5 before this deposition?

6 A. I don't think so.

7 Q. Who is Richard Binns?

8 A. He was a scientist at GR&DC.

9 Q. Would you turn to the third page of
10 the document? It says "T-2" in the upper,
11 right-hand corner.

12 A. I have it.

13 Q. Does this contain a report by -- is
14 it Mr. Binns or Dr. Binns?

15 A. Dr. Binns.

16 Q. Does this contain a report of
17 Dr. Binns' attendance at a "Symposium Toxicology
18 of Respirable Particles" in Richland, Washington?

19 A. Yes.

20 Q. So, my question is, does this
21 contain his report, his attendance at that
22 meeting?

23 A. It would appear to.

24 Q. Now, you see in the first sentence
25 there, does it read "The meeting was sponsored

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1 jointly by the U.S. Department of Energy and
2 Batelle Memorial Institute"?

3 A. It does.

4 Q. Does it go on to say "A large
5 number of papers were concerned with toxicology
6 related to new fuel burning processes" --

7 THE COURT REPORTER: I'm sorry,
8 could you repeat --

9 Q. Does it go on to say, "A large
10 number of papers were concerned with toxicology
11 related to new fuel burning processes or to the
12 nuclear industry"?

13 MS. WIVELL: Objection, leading.

14 Q. "The important papers on tobacco
15 smoke inhalation toxicity are reviewed in detail"?

16 MS. WIVELL: Objection, leading.

17 Q. Does the document say that?

18 MS. WIVELL: Objection, leading.

19 A. It does.

20 Q. Can you turn to the page marked X-2
21 in the upper right-hand corner? Go back one, I
22 think. Are you at the page marked X-2?

23 A. I don't appear to have an X-2.

24 Q. It might be a bad copy. You will
25 see a page that's got a handwritten circle on it.

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1 Turn the page. Right there.

2 Does that page begin, "a
3 distillation"?

4 A. It does.

5 Q. Could you read that paragraph into
6 the record?

7 A. "A distillation of the recent
8 long-term inhalation work with smoke carried out
9 in three laboratories, O-R-N-L microbiological
10 associates Batelle using two" -- and that's in
11 brackets" -- "using two different machines,
12 O-R-N-L, S-E-M," close bracket, "and two species
13 rat/mouse show similar results obtained at each,
14 near maximal dosing of animals with smoke
15 produced, one, reduced growth rate; two, a
16 reduction in the level of spontaneous pathological
17 lesions in organs other than the respiratory
18 system; three, no evidence of increased mortality
19 in smokers compared with controls."

20 Q. And can you skip down to the
21 paragraph that begins "overall"? Do you see that?

22 A. I do.

23 Q. Can you read those two short
24 paragraphs into the record?

25 A. "Overall, the various studies
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1 indicate that in most animal models used, smoke is
2 not a clear carcinogen. No satisfactory model for
3 bronchiogenic carcinomas has been developed after
4 several years' work in different laboratories
5 using various machines and animal species."

6 Q. Thank you. Now, Dr. Binns was at
7 GR&DC when the reorganization was put into
8 effect --

9 A. He was.

10 Q. -- and when the decision to
11 terminate internal inhalation work at the facility
12 was made?

13 MS. WIVELL: I Object.

14 A. That's correct.

15 Q. He was there?

16 A. He was there.

17 Q. Would you turn back to Exhibit 1292
18 and turn to page 6?

19 MS. WIVELL: Again, I object to the
20 use of this document.

21 MR. MCGANN: Yeah, I'll give you a
22 continuing objection.

23 Q. Do you see under point fifteen, it
24 says, "Future coordination"?

25 A. I do.

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1 Q. And does it say, quote,
2 "Considerable stress was placed on the importance
3 of the coordination role and a need for a totally
4 open-door policy between laboratories," close
5 quote?

6 A. I do.

7 Q. What is that referring to?

8 A. This means that there would be free
9 interchange of information and findings between
10 the various R&D facilities, and it also meant that
11 numerous meetings would be held between those who
12 were working in the same areas.

13 Q. And did that occur?

14 A. It did, as far as I remember.

15 Q. There's a reference under point
16 fourteen on that page to a research directors'
17 meeting; correct?

18 A. It does, it --

19 Q. And what was the purpose -- well,
20 did that meeting occur?

21 A. It did.

22 Q. And what was the purpose of that
23 meeting?

24 A. The purpose of this meeting was to
25 agree -- a group program, which R&D facilities

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1 would do what and where.

2 MR. McGANN: Would you mark that
3 1293?

4 (Pritchard Exhibit 1293 marked for
5 identification.)

6 MR. McGANN: While we're off the
7 record temporarily, this is from the designation I
8 sent to you, so you know.

9 Q. The reporter has handed you what's
10 been marked as Exhibit 1293, Mr. Pritchard, which
11 is a document headed "R&D -- R&D Directors'
12 Meeting, March 21-22, 1985"; correct?

13 A. Correct.

14 Q. Do you recognize this document?

15 A. I have seen it before.

16 Q. Is this the -- well, what is the
17 document?

18 A. It is -- appears to be a record of
19 the R&D directors' meeting which was held
20 subsequent to the meeting of the heads of the CAC
21 tobacco companies.

22 Q. Is this the R&D's directors'
23 meeting referred to in Exhibit 1292?

24 A. I believe it is.

25 Q. Did you attend that meeting?

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1 A. I don't think I did.

2 Q. Do you know whose notes these are?

3 A. I have looked for an initial and I
4 can't find it, but I would presume that they are
5 from Alan Heard and that he was the coordinator
6 and had been designated to coordinate the meeting.

7 Q. Look down in the middle of the
8 first page.

9 A. Yes.

10 Q. Does it say there, "Chairman of
11 operating companies will be responsible for
12 strategic direction of the various R&D programs"?

13 A. It does.

14 MS. WIVELL: Excuse me. Before we
15 go on, I just want to make a note for the record,
16 again, this is a document that I didn't receive
17 any notice of under the time requirements set out
18 by the Court's order, so I believe it's improperly
19 designated, and I object to any use of this
20 document during the deposition.

21 MR. MCGANN: I have responded
22 earlier, so I won't take any more time now.

23 Q. Does it say, quote, "Chairman of
24 operating companies will be responsible for
25 strategic direction of various R&D programs"?

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1 A. It does.
2 MS. WIVELL: Objection, leading.
3 Q. What does that refer to?
4 A. It means what it says, that the
5 chairman of each company would be responsible for
6 the strategic direction of the R&D programs to be
7 carried out in that -- in those companies.
8 Q. Is that different than what had
9 preceded?
10 A. Well, inasmuch as the GR&DC had
11 formulated the same program, yes.
12 Q. Now, what does the next sentence
13 say?
14 A. "Companies should not spend less
15 than they are currently spending in total.
16 Payment to B.A.T. Co." --
17 Q. Let me stop you there. Is that
18 what, in fact, occurred?
19 A. It is.
20 (Pritchard Exhibit 1294 marked for
21 identification)
22 Q. Mr. Pritchard, the reporter has
23 handed you what's been marked as Exhibit 1294,
24 which is a document headed "GR&DC
25 Reorganization."

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1 Do you see that?

2 A. I do.

3 Q. What's the date of this document?

4 A. The 25th of April, 1985.

5 Q. What is -- what is this document?

6 MS. WIVELL: All right. Before we
7 go on, I would like again to make an objection for
8 the record.

9 This document was not disclosed to
10 us in a timely fashion pursuant to the court's
11 order, and I object to its use.

12 MR. MCGANN: You can go ahead and
13 answer.

14 A. It deals with -- it's a letter to
15 all employees at GR&DC, and it talks about the
16 reorganization of GR&DC.

17 Q. The same reorganization you have
18 been testifying about?

19 A. That's correct.

20 Q. Whose -- whose the document from?

21 A. The document is from Mr. Bruell,
22 who was the chairman of B.A.T. Co.

23 Q. Now, on the first page, can you
24 read -- well, let me ask you this: On the first
25 page, do you see an item number one, "The future

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1 role of GR&DC"?

2 A. I do.

3 Q. Can you read point three into the
4 record that falls under that title?

5 A. "Make a contribution to the
6 fundamental tobacco research effort of B.A.T.
7 Industries Group. This work will be integrated in
8 a group research program covering all the major
9 laboratories."

10 Q. What is the "fundamental tobacco
11 research effort" that's being referred to in
12 Mr. Bruell's note?

13 A. The fundamental research effort is
14 that part of research which deals with seeking to
15 find answers to fundamental questions that we
16 didn't have the answers to at that time.

17 Q. And where was that work going to
18 take place?

19 A. That work was going to be done in
20 all of the research companies.

21 Q. Did that include the facility at
22 Southampton?

23 MS. WIVELL: Objection, leading.

24 A. It includes the facility at
25 Southampton and elsewhere.

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1 Q. Can you turn to the second page,
2 and take a look at -- there's a diagram and some
3 descriptive information on this page.

4 Can you tell me what this is
5 intended to convey?

6 A. This is an organization chart
7 showing Richard Binns as the manager, and then the
8 heads of the various research functions in
9 GR&DC -- or what was to be GR&DC.

10 Q. Was this the old organization or
11 the intended new organization?

12 A. This is the new organization.

13 Q. Okay. And further down on the
14 page, it says, "Research Dr. R.R. Baker"; do you
15 see that?

16 A. I see that.

17 Q. Who is Dr. R.R. Baker?

18 A. Dr. Baker was a scientist at
19 Southampton.

20 Q. What did his responsibilities
21 include under the new organization?

22 A. Biological research, smoke
23 research, smoker behavior, tobacco treatment and
24 flavor and biotechnology.

25 Q. Let me show you what was marked
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1 earlier in this deposition as -- I'm sorry -- in
2 an earlier deposition but shown to you in this
3 deposition, but shown to you in this deposition,
4 Plaintiff's Exhibit 701, which is headed "Tobacco
5 Research in B.A.T. Industries."

6 Do you see that?

7 A. I do.

8 Q. Had you ever seen this document
9 before it was shown to you in the deposition?

10 A. I'm not sure, but since it contains
11 part of what we have been looking at, I think I
12 must have.

13 Q. Do you know who put this together?

14 A. I can't find any name on it.

15 Q. I don't see a name on it, either.
16 That's why I'm asking if you know -- if you can
17 tell --

18 A. I don't know, but again, I would
19 presume it was Mr. Heard.

20 Q. Would you turn to the page ending
21 in Bates number 2607? Are you there?

22 A. I am.

23 Q. Do you see a subheading on that
24 page that reads "Biological Research"?

25 A. I do.

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1 Q. Would you read into the record the
2 second sentence that begins, "A senior research
3 scientist"?

4 A. I'm sorry.

5 Q. Would you read into the record the
6 second sentence there that begins, "A senior
7 research scientist"?

8 A. "A senior research scientist will
9 be retained to coordinate external work and to
10 provide expertise in toxicology and in vitro
11 short-term tests, such as the Ames test, will be
12 retained, since these are used for product
13 screening and could form the basis of a biological
14 league table."

15 Q. Is your -- do you have an
16 understanding as to whether that occurred?

17 A. I -- it did.

18 Q. And what is the reference to a
19 biological league table?

20 A. I think there was some discussion
21 among the scientists that there might be a league
22 table in the same form as tar and nicotine with
23 regard to biological activity.

24 Q. In which markets?

25 A. My recollection is that the

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1 market this was most likely to appear in would be
2 Canada.

3 Q. How about the United States?

4 A. I never heard of it in the United
5 States.

6 Q. Can you turn to the next page? Do
7 you see a chart there that's headed "Research
8 Proposed"?

9 A. Correct.

10 Q. And what are -- what are the three
11 elements that fall under the manager in this
12 chart?

13 A. "Smoke formation, smoke control and
14 biology."

15 Q. Can you read into the record what
16 the subareas that fall under "Biology" are,
17 according to this chart?

18 A. "Leaf studies, biological testing
19 and toxicology."

20 Q. Okay. Let me hand you now what was
21 marked in this deposition as Plaintiff's Exhibit
22 1463. I'm sorry.

23 A. Is this copy for me or is this
24 for --

25 Q. No, that's for you.

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1 MR. MCGANN: I'm sorry, Marti. I
2 don't have an extra one of this one.

3 Q. This is a document that says, "A.L.
4 Heard, 29, October, 1985" at the end, and it's
5 headed "Rationale for R&D"; correct?

6 A. That's correct.

7 Q. What is -- what is -- is it
8 Dr. Heard or Mr. Heard?

9 A. Mr. Heard.

10 Q. What is Mr. Heard describing in
11 this note?

12 A. He's talking about what R&D is all
13 about.

14 Q. Now, do you see he's divided his
15 discussion into two major headings. One is
16 "Product Research" on page 1 and the other is
17 "Smoking and Health Research" on page 2 -- I'm
18 sorry, page 3?

19 MS. WIVELL: Objection, leading.

20 A. I do.

21 Q. Let's talk first about product
22 research.

23 What kinds of product research is
24 he describing here?

25 A. Product research principally to
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1 anticipate and meet consumer demand and the
2 requirements and the regulatory authorities.

3 Q. If you turn over to the second page
4 there's a -- under "Product Research," there's a
5 heading "Requirements of Regulatory Authorities."

6 Do you see that?

7 A. I do.

8 Q. What was your understanding during
9 the time you were the CEO of Brown & Williamson as
10 the requirements of regulatory authorities in the
11 United States with regard to product research?

12 A. With regard to the United States,
13 the requirements of the regulatory authorities
14 were that we produce tar and nicotine numbers for
15 all products that we marketed.

16 Q. Did they require us to produce
17 biological activity ratings?

18 A. They did not.

19 Q. Were we permitted to advertise
20 biological activity ratings on B&W cigarettes
21 when --

22 A. Not that I was aware of.

23 Q. Turn to page 3, the heading
24 "Smoking and Health Research."

25 Do you see that?

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1 A. Uh-huh, yes.

2 Q. How does that type of research,
3 Mr. Pritchard, differ from product research?

4 A. Product research is aimed at
5 modifying and principally improving the product as
6 accepted by the consumer.

7 Smoking and health research is --
8 is not market driven, but it is -- it is an avenue
9 that any responsible company has to pursue.

10 Q. Prior to the GR&DC reorganization,
11 had B.A.T. Co. pursued the smoking and health
12 research?

13 A. It had.

14 Q. And where did it do that?

15 A. Well, it did it both at GR&DC and
16 through external contracts.

17 Q. Did that continue after the
18 reorganization?

19 A. It did.

20 Q. What is the -- you've heard of
21 something called "The Scientific Research Group"?

22 A. I -- I am aware of the Scientific
23 Research Group.

24 Q. Is it sometimes referred to as the
25 SRG?

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1 A. That's correct.

2 Q. What -- when was the SRG
3 established?

4 A. I think it was post the
5 reorganization of GR&DC, so that was -- would have
6 been post-April, '85, to bring --

7 Q. What company formed the SRG, so
8 we're clear about this?

9 A. The SRG members came from B.A.T.
10 Co. -- what was formerly GR&DC,
11 Brown & Williamson, Canada, Germany and Brazil.

12 Q. What was its -- what was the
13 function of the SRG?

14 A. The function of the SRG was to
15 discuss what projects should be funded,
16 principally externally, to address issues in the
17 smoking and health area.

18 Q. Is that what the SRG did during the
19 time you were at the company?

20 A. To the best of my knowledge.

21 Q. Following the reorganization of the
22 GR&DC, can you describe briefly how research
23 policy was made?

24 A. Each company would devise its own
25 research and development program. Alan Heard as

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1 the coordinator would visit all the companies to
2 discuss their programs with them, and being aware
3 of what each one was doing, could highlight areas
4 where there may be or might be overlapping.

5 He would also ascertain what work
6 companies were not doing that they would like to
7 see done, whether it was because of budgetary
8 restraints or manpower restraints or because they
9 couldn't see any immediate relevance, but there
10 might be something in the future, which would then
11 form the basis of an individually funded, by the
12 company's concern, fundamental research program.

13 Q. And Heard made these visits to
14 Brown & Williamson during the time you were CEO?

15 MS. WIVELL: Objection, leading.

16 A. He did.

17 Q. Who did he meet with when he came
18 to Brown & Williamson?

19 A. He would meet with Mr. Kornhorst,
20 and laterally, Dr. Wigand, and maybe other
21 scientists.

22 Q. What was Mr. Kornhorst's position?

23 A. He was responsible for all
24 manufacturing and research. Dr. Wigand reported
25 to him.

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1 Q. And what was Dr. Wigand's position?

2 A. He was the head of research.

3 Q. Did lawyers in the United States
4 play a role in making research policy?

5 A. No, they did not.

6 Q. Did Mr. Heard meet with lawyers in
7 the United States during this process?

8 A. Not to my knowledge.

9 Q. Why not?

10 A. Because he had no need to do so.

11 Q. During the time you were the CEO of
12 Brown & Williamson, did the research policy get
13 made with the consideration for smoking and health
14 litigation in the United States?

15 A. No.

16 Q. Why not?

17 A. Because there was nothing we could
18 do. We didn't know what was required.

19 Q. There's been talk in this
20 deposition about the concept of a safer cigarette,
21 Mr. Pritchard. What is a safer cigarette?

22 A. I don't know.

23 Q. Why don't you know what a safer
24 cigarette is?

25 A. Because I don't know how you would
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1 determine whether a cigarette was safer or not.

2 Q. Are you aware of any tests that you
3 can do in a laboratory that would produce results
4 to rank cigarettes in terms of safety?

5 A. I do not.

6 Q. Does that mean that GR&DC never
7 looked for a safer cigarette?

8 A. Well, we couldn't look for a safer
9 cigarette, because we had no way of measuring it,
10 but over the -- my career in B.A.T., dramatic
11 changes were made in the product, comparing
12 products in the 1950s to the products that are on
13 the market today. There is enormous difference
14 in the reductions of nicotine and what is commonly
15 called tar, and these products have proven to be
16 very acceptable to the consumer in terms of taste,
17 which is our ultimate test.

18 Q. Was there other research done in an
19 effort to change the product, regardless of
20 whether it ever became commercialized?

21 A. Oh, there was research going on all
22 the time, but at the end of the day, the product
23 had to be saleable.

24 Q. What was the other Noxae program?

25 A. I'm not totally familiar with it,
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1 but I believe this looked at nitrosamines and
2 other oxide, if not nitrogen, particularly, carbon
3 monoxide.

4 Q. And looked at doing what?

5 A. Looked at seeing whether or not
6 these could be removed, and a lot of work was done
7 on selective filtration, and not a lot of which
8 was successful.

9 Q. When you talk about selective
10 filtration, what are you referring to, selective
11 filtration of what?

12 A. I mean --

13 Q. In a general sense.

14 A. The filter -- filters as currently
15 composed reduce the level of everything going
16 through, except possibly the gaseous phase.

17 Selective filtration would mean
18 that you had a filter capable of removing, say,
19 oxides for nitrogen or carbon monoxide, and we
20 never found anything.

21 Q. How long had selective filtration
22 research been pursued at B.A.T. Co.?

23 A. Probably about 40 years.

24 Q. Was biological testing done in an
25 effort to change the product?

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1 A. Not to my knowledge.

2 Q. Okay. Let me show you what was
3 marked as Exhibit -- actually, you know, before we
4 move on to the next topic, let's just take a short
5 break.

6 (Brief recess.)

7 Q. Mr. Pritchard, there's been
8 testimony about biological research throughout
9 your deposition.

10 GR&DC conducted biological
11 research, did it not?

12 A. It did.

13 Q. What was the purpose of its
14 biological research?

15 A. It was looking to see if there was
16 a way of reducing the biological activity.

17 Q. Of cigarettes?

18 A. Of cigarettes.

19 Q. Did the scientists at GR&DC ever
20 conclude that lower biological activity cigarettes
21 were, in fact, safer for humans to smoke?

22 A. No; no, they didn't.

23 Q. Did anyone else draw that
24 conclusion, in your mind?

25 A. Not to my knowledge.

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1 Q. I have handed you what was marked
2 as Plaintiff's Exhibit 1470 in this deposition,
3 which you identified earlier as the November 5th,
4 1987 TSRT meeting minutes; correct?

5 A. Correct.

6 Q. Now, at the bottom of page 1,
7 there's a discussion -- there's a reference to a
8 discussion of a new smokeless cigarette being
9 developed by R.J. Reynolds; correct?

10 A. That's correct.

11 Q. Your understanding is, that was or
12 became the Premiere product?

13 A. That's my understanding.

14 Q. Now, this says -- these minutes say
15 there at the bottom of page 1, "In addition to
16 investing in new production equipment, Had,"
17 referring to RJR, "also approached the Surgeon
18 General to the proposed marketing of the product.
19 This had apparently led to advice that it should
20 be evaluated by the American Health foundation."

21 Do you see that?

22 A. I do.

23 MS. WIVELL: Objection, leading.

24 Q. Is that what the document says?

25 A. That's what the document says.

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1 MS. WIVELL: Objection, leading.

2 Q. Did anyone -- did any of the
3 scientists report ever to the TRTC that the
4 Premiere product was, in fact, safer for people to
5 smoke?

6 A. Not that I am aware of.

7 Q. Did you learn whether the Surgeon
8 General or the American Health Foundation ever
9 concluded that the Premiere product was safer to
10 smoke?

11 MS. WIVELL: Objection.

12 A. I'm not --

13 Q. Let me ask that again. Did you
14 ever learn whether the Surgeon General concluded
15 that the Premiere product was safer to smoke?

16 A. I did not.

17 Q. You did not learn that?

18 A. No.

19 Q. Did you learn whether any other
20 outside scientific organizations ever concluded
21 that the Premiere product was safer to smoke?

22 A. Not that I am aware of.

23 Q. Let me hand you what was marked as
24 Plaintiff's Exhibit 1471 in this deposition, which
25 you identified earlier as the October 31, 1988

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1 TSRT meeting minutes; correct?

2 A. Correct.

3 Q. Turn to page 2, please, and take a
4 look at item 11.

5 Do you see a reference there to a
6 project Green Dot and a Project Airbus?

7 A. I do.

8 Q. What was project Green Dot?

9 A. I'm not totally familiar with Green
10 Dot, because that was carried out at B.A.T.U.K.E.
11 My recollection is that it was an attempt to
12 develop a product which would have
13 substantially -- would be like a conventional
14 cigarette, but would have lower tar, lower
15 nicotine. I'm not totally clear on that.

16 Q. Take a look at the discussion under
17 item fourteen in this document at the bottom of
18 the page and just read that to yourself.

19 A. Yes.

20 Q. Does that refresh your recollection
21 about the nature of project Green Dot?

22 A. Yes.

23 Q. Would you change any way your
24 description of it or are you simply capturing what
25 you recall?

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1 A. Yes, I had said lower tar and lower
2 nicotine. In fact, it was lower tar with a normal
3 level of nicotine.

4 Q. Okay. What does it mean when it
5 refers to project Green Dot B.A.T.U.K.E. on this
6 document?

7 A. That means that it was being -- the
8 project was being handled by B.A.T.U.K.E.; that
9 is, the GR&DC, because that now belongs -- is now
10 a part and parcel of B.A.T.U.K.E.

11 Q. How did project Airbus differ from
12 project Green Dot?

13 A. Project Airbus differed from Green
14 Dot, in that this was a totally different type of
15 product looking to develop some of the same
16 features that the Premiere product had.

17 Q. And where was the Airbus research
18 begun?

19 A. That was carried out by
20 Brown & Williamson.

21 Q. Let me hand you now what was
22 previously marked in this deposition as Exhibit
23 1474 -- sorry -- which you identified earlier as
24 the March 20, 1989 TSRT meeting minutes; correct?

25 A. Correct.

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1 Q. Now, you attended this meeting, did
2 you not?

3 A. I did.

4 Q. And there on the first page, it
5 talks about a report you gave on the withdrawal of
6 Premiere; correct?

7 A. Correct.

8 Q. Mr. Pritchard, what were the
9 reasons in your view that Premiere was withdrawn
10 from the market?

11 A. I think the principal reason was
12 the rejection by the consumer. It didn't like
13 taste. There were problems of disposal. It
14 required a special lighter to light it.

15 These, I think, were -- were the
16 main differences -- the main reasons, I'm sorry.

17 Q. What were the disposal problems you
18 just referred to?

19 A. Well, disposal was that unlike a
20 normal cigarette, which reduces as it's consumed,
21 the Premiere product didn't, it remained intact as
22 a tube.

23 Q. What became of Project Airbus?

24 A. Brown & Williamson did a lot of
25 work, particularly desk research, and including

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1 trying to -- well, certainly, computer models. I
2 think some prototypes were made, but the problems
3 that were encountered indicated that much more
4 fundamental research needed to be done.

5 Q. Do you recall some of the principal
6 problems that Brown & Williamson encountered in
7 developing a competitive product to Premiere?

8 A. It was problems of materials. The
9 tobacco was burning, which was a problem that
10 Premiere did not have, but it was essentially the
11 materials that were used in the design of the
12 products were not satisfactory.

13 Q. Were you given a briefing on the
14 status of Project Airbus before you attended the
15 March 20, 1989, TSRT meeting?

16 A. I was.

17 (Pritchard Exhibit 1295 was marked
18 for identification.)

19 Q. Mr. Pritchard, the reporter is
20 handing you what's been marked as Exhibit 1295,
21 which is a document that says on the front page,
22 "Airbus Review Prepared for Mr. R.J. Pritchard,
23 March 6th, 1989"; correct?

24 A. That's correct.

25 Q. Do you recognize this document?

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1 A. I do.
2 Q. What is it?
3 A. It's a review of the Airbus
4 project.
5 Q. A review for who?
6 A. For me.
7 Q. Okay. Let's --
8 MS. WIVELL: Before we address any
9 more questions, I would just like to note for the
10 record that this again is among those items which
11 were designated by counsel, we believe, improperly
12 and not in a timely fashion, and I object to its
13 use.
14 Q. Can you turn to the page that ends
15 with Bates number 1365?
16 A. I have it.
17 Q. All right. And that's a page
18 entitled "Airbus Executive Summary"?
19 A. That's correct.
20 Q. Do you recall who prepared this,
21 the executive summary part?
22 A. I'm not sure. I'll find a name.
23 It doesn't say.
24 Q. Okay. You don't recall?
25 A. I don't recall who it was.
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1 Q. All right. Taking a look at the
2 page ending with Bates number 1365, do you see in
3 the middle paragraph, there's a reference to a,
4 quote, "concentric," paren, "Ellis-type," close
5 paren, design?

6 A. I do.

7 Q. What is that referring to?

8 A. That refers to a design that had
9 been produced by Sir Charles Ellis, and I believe
10 he had a patent on it, which I think at this time
11 had expired, but it consisted of tobacco
12 surrounding a tube. There were tubes involved,
13 and hence, the use of the term "concentric."

14 Q. Was research done within Project
15 Airbus on that type of design?

16 A. It was.

17 Q. Would you read into the record the
18 two sentences at the end of that paragraph
19 beginning "Extensive"?

20 A. "Extensive research was conducted
21 in identifying conventional materials to control
22 heat and mass transfer operations. Practical
23 experiments were backed up by theoretical models
24 to more quickly identify and solve technical
25 problems."

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1 Q. Is it your understanding that
2 that's what took place?

3 A. It's my understanding that took
4 place.

5 Q. What conclusions did the scientists
6 draw as a result of that research?

7 A. That they -- that these designs
8 could not deliver what they were looking for.

9 Q. Turn to the next page of the
10 executive summary, please, that's ending in Bates
11 number 1366.

12 And do you see at the top of the
13 second paragraph, it says, "RJR has withdrawn
14 Premiere from the market"?

15 A. I do.

16 Q. So, was it your understanding that
17 by March of 1989, Premiere had, in fact, been
18 withdrawn from the market?

19 MS. WIVELL: Objection, leading.

20 A. That is correct.

21 Q. Would you read into the record the
22 last sentence in that paragraph that begins with
23 the word "but the concept"?

24 A. "But the concept enveloped by
25 Premiere remains viable for the long term, though

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1 we must recognize that significant additional
2 research is needed."

3 Q. Did you agree with that?

4 A. I did.

5 Q. Was additional research conducted?

6 A. It was transferred to Southampton
7 as being of a fundamental nature.

8 Q. Is that described in the last
9 paragraph here?

10 A. That is.

11 Q. The last paragraph refers to a
12 two-pronged approach going forward; correct?

13 A. That's right.

14 Q. What was the two-pronged approach?

15 A. Resources being directed to more
16 evolutionary product designs, and these efforts
17 were capitalized on the Green Dot research, and
18 the second front was "Fundamental studies
19 recognizes critical success of Airbus projects."

20 Q. Was it your understanding that
21 those research efforts, in fact, took place?

22 MS. WIVELL: Objection, leading.

23 A. To the best of my knowledge, they
24 did.

25 Q. Now, would you turn into this
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1 document, I guess, about three pages to the page
2 ending in Bates number 1369? This is a document
3 that's headed "Evaluation of Ellis-type designs of
4 smoking articles which heat, but do not burn
5 tobacco, technical abstract"; correct?

6 A. That's correct.

7 Q. And what conclusions were drawn in
8 this technical abstract about the feasibility of
9 the Airbus design?

10 A. I think the simple conclusion was,
11 it didn't work.

12 Q. Would you turn now further into the
13 document to the page ending in Bates number 1372;
14 which is headed "Conclusions from Airbus Research
15 Meeting, 16th, February, 1989"; correct?

16 A. Correct.

17 Q. What is this document?

18 A. Well, it's basically a summary of
19 the situation with regard to Premiere itself, and
20 the initial findings on the research that
21 Brown & Williamson had conducted under the Airbus
22 project.

23 Q. Did you attend this Airbus research
24 meeting?

25 A. I did.

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1 Q. It indicates that a J. Wigand
2 attended?

3 A. It does.

4 Q. Who is J. Wigand at this time?

5 A. That's Dr. Jeff Wigand, who was the
6 head of research at Brown & Williamson at the
7 time.

8 Q. When had he been hired?

9 A. Well, it must have been fairly
10 close to this meeting, because I think he joined
11 us at the end of 1988. I can't remember the exact
12 date.

13 Q. Late '88, early '89?

14 A. Something like that.

15 MS. WIVELL: Objection, leading.

16 Q. Do you see under point five in this
17 document, it reads, "From the search for potential
18 prototypes, it is unlikely that the concentric
19 tube Ellis-type concept can be made to work"?

20 A. I do.

21 Q. Did you agree with that conclusion?

22 A. I did.

23 Q. Did -- is it Mr. or Dr. Wigand?

24 A. Everyone present in the meeting, to
25 the best of my knowledge, agreed that this was --

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1 that this was correct.

2 MS. WIVELL: Objection,
3 nonresponsive.

4 Q. Is -- is it Dr. or Mr. Wigand?

5 A. It's Dr. Wigand.

6 Q. Did Dr. Wigand express any
7 disagreement with the conclusions expressed in
8 this document?

9 A. Not --

10 MS. WIVELL: Objection.

11 A. Not that I can remember.

12 Q. Quite apart from whether he did so
13 at this meeting, did he at any time express
14 disagreement with the conclusions expressed in
15 this document?

16 MS. WIVELL: Objection.

17 A. Not to my knowledge, no.

18 Q. Let me hand you, Mr. Pritchard, a
19 document which was marked as Exhibit 1475 in this
20 deposition, which is a report entitled "Nicotine
21 Administration Ariel Smoking Devices dated August
22 2nd, 1966"; correct?

23 A. That's correct.

24 Q. Do you recall Ms. Wivell drew your
25 attention to some of the statements in this

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1 exhibit?

2 A. I do.

3 Q. What was Project Ariel,
4 Mr. Pritchard?

5 A. Project Ariel, which was in 1966,
6 the document says, "A smoking device from which a
7 smoker can receive in suitable form sufficient
8 nicotine to give satisfactory physiological and
9 psychological responses unaccompanied by the
10 products of combustion and paralysis associated
11 with normal cigarette smoking."

12 THE COURT REPORTER: I'm sorry,
13 could you repeat starting with "unaccompanied"?

14 THE WITNESS: "Unaccompanied by the
15 products of combustion and paralysis associated
16 with normal cigarette smoking." I'm sorry I'm
17 going so fast.

18 Q. Is this the concentric Ellis-type
19 design?

20 A. It is.

21 MS. WIVELL: Objection, leading.

22 Q. Can you turn to page 5 in the
23 report. It's Bates number ending in 4279.

24 A. I have it.

25 Q. Okay. Would you read the sentence

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1 at the bottom of the page under "Future
2 Development" here in this report?

3 A. "The devices which have been made
4 to date are still a considerable way from being
5 acceptable and easily produced, and it would be
6 misleading to underestimate the amount of effort
7 required to develop the devices to the required
8 acceptability, both in smoke quality and ease of
9 production."

10 Q. Who had been in charge of research
11 and development at Brown & Williamson prior to
12 Dr. Wigand's hiring?

13 A. Earl Kornhorst.

14 Q. And what happened to Mr. Kornhorst
15 that led to the need to hire a replacement?

16 A. He was promoted to a position where
17 he was, in fact, in charge of cigarette
18 manufacture, and also research, but there was a
19 need for a manager of research or a vice president
20 of research.

21 Q. Was that the position you were
22 looking to fill when Dr. Wigand was hired?

23 A. That is correct.

24 Q. Who actually made the decision to
25 hire Dr. Wigand?

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1 A. I did.

2 Q. What were you looking for when you
3 were interviewing and searching for a candidate
4 for this position?

5 A. I was looking for someone who had
6 demonstrated a capability in -- as an entrepreneur
7 who had the required scientific background who
8 would bring some original thinking into the
9 operation, unencumbered by 20 or 30 years of
10 having worked in the industry to bring in a
11 totally new approach.

12 Q. Did you participate directly in the
13 process of searching for a replacement?

14 A. I did.

15 Q. Did you interview Dr. Wigand?

16 A. I did.

17 Q. How many times?

18 A. At least twice.

19 Q. During these interviews, did you
20 share your views with Dr. Wigand?

21 A. I did.

22 Q. Did you talk about safer cigarette
23 research with Dr. Wigand during these interviews?

24 A. Not that I can recall.

25 Q. Did you ever discuss safer

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1 cigarette research with Dr. Wigand?

2 A. No.

3 Q. Do you recall that there was a
4 research policy group meeting in Vancouver in
5 September, 1989?

6 A. I believe there was.

7 Q. Who attended on behalf of
8 Brown & Williamson?

9 A. Dr. Wigand.

10 Q. Did Dr. Wigand come see you after
11 he came back from the RPG meeting in Vancouver?

12 A. Yes, he did.

13 Q. What did he tell you?

14 A. That he was concerned about some of
15 the discussions that had taken place where he felt
16 that efforts were being made to divert group
17 resources along specific lines which were not, in
18 fact, priorities of Brown & Williamson at that
19 time.

20 Q. Did he tell you what lines those
21 were that were concerning him?

22 A. Lines that were primarily in
23 furthering Ames testing, and this was particularly
24 driven by the Canadians.

25 Q. Did he tell you why, in his view,
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1 Brown & Williamson should not be as equally
2 interested in those tests?

3 A. He explained in layman's terms to
4 me the Ames test and what it was capable of and
5 what it wasn't capable of, and that, it's -- my
6 understanding from him at that time was that it
7 was devised very basically as a screening for --
8 for ingredients and not for complex structures,
9 and that it was not definitive, other than as a
10 screening device, and that Dr. Ames himself had
11 cautioned in its use.

12 Q. Did Dr. Wigand in this meeting with
13 you raise any concerns over the company's position
14 in litigation in the United States?

15 A. No.

16 Q. Did he ever raise concerns like
17 that with you?

18 A. Not with me.

19 Q. Did he come back and see you again
20 about the Vancouver conference after that first
21 meeting?

22 A. He did. He came back and brought
23 the draft minutes of the Vancouver meeting which
24 he had attended.

25 Q. Well, let me stop you there. Who
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1 prepared the draft minutes; do you know?

2 A. I'm not sure who prepared it. It
3 probably would have been one of the people
4 attending from GR&RD in Southampton, and that they
5 were the largest contingent.

6 Q. What was -- did Dr. Wigand prepare
7 the draft?

8 A. No, he didn't.

9 Q. What did he tell you when he came
10 back to see you a second time?

11 A. He expressed concern that the
12 minutes as drafted did not reflect -- truly
13 reflect the views that had been expressed and that
14 the agreements had been reached.

15 Q. Did you give him any direction as a
16 result of that complaint?

17 A. So I advised him that, "Well, as
18 these are draft minutes, you are perfectly
19 entitled to raise objections to those areas where
20 you feel that your understanding was different to
21 what is, in fact, recorded in the minutes," and I
22 recommended to him that he do this, then consult
23 with Kendrick Wells as to language. Scientists
24 don't always write in precise terms in terms of
25 the use of the English language, as they all do

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1 with science, and that having done that, he should
2 then return them. He discussed them with me after
3 that had been done, and I --

4 Q. He came back yet a third time?

5 A. He came back after he had rewritten
6 and then gone through them with Kendrick Wells,
7 and I told him to send them back and say that this
8 was Brown & Williamson's view from our
9 understanding of the -- our attendee at the
10 conference as to how the minutes should reflect
11 the discussions.

12 Q. Who, to your understanding,
13 prepared the redrafted minutes that were sent back
14 to England?

15 A. Dr. Wigand.

16 Q. Mr. Pritchard, let me show you what
17 was previously marked as Exhibit 301 in an earlier
18 deposition. It's been shown to you a couple of
19 times in this deposition. It's the notes of the
20 Sidney Research Conference in March of 1978.

21 Did you want to correct the record
22 in some respect with regard to this document?

23 A. Yes, I do.

24 Q. What is that?

25 A. In -- when counsel drew my

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1 attention to this yesterday --

2 Q. Are you referring to me to or
3 Ms. Wivell?

4 A. To Ms. Wivell. I was concentrating
5 on the document, and as a number of these
6 documents have stamps on them, I totally failed to
7 concentrate on this.

8 This document was marked 1978. I
9 was already back in London by that time. I said I
10 wasn't sure whether I had seen it or not. In that
11 this means it went into the reading file --

12 Q. Why don't you read into the record
13 the stamp you're talking about.

14 A. The stamp I'm talking about is "TDB
15 reading file circulated."

16 Since it was in the -- presumably
17 went into the reading file, there's a high
18 probability I actually did see it, so I regret
19 that, but I overlooked it yesterday.

20 MR. MCGANN: Thank you. That's all
21 I have.

22 MS. WIVELL: Off the record,
23 please.

24 (Recess taken.)

25 BY MS. WIVELL:

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1 Q. Mr. Pritchard, I have had the court
2 reporter hand you Exhibit 140, right?

3 A. Correct.

4 Q. You have it in front of you?

5 A. I do.

6 Q. All right. And that is the
7 document that Mr. Felton wrote -- or Dr. Felton
8 wrote concerning his meeting with Helmut Wakeham,
9 vice president and director of research at Philip
10 Morris; right?

11 A. That is correct.

12 Q. And that's the document which you
13 will recall on the second page refers to a tacit
14 agreement between the heads of the U.S. company,
15 the in-house biological work not be done; do you
16 recall that, sir?

17 A. I'm having trouble finding it.

18 Q. Under the heading "Philip Morris"
19 on the second page.

20 A. Oh, yes, I see.

21 Q. You recall that this memo discusses
22 the fact that Wakeham said there was a tacit
23 agreement between the heads of the U.S. companies
24 that in-house biological work not be done?

25 MR. McGANN: Object,

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1 mischaracterizes what the document says.

2 A. It says "Wakeham was told that
3 there was a tacit agreement."

4 Q. Now, sir, did you ever talk to
5 Dr. Felton about this memo, Exhibit 140?

6 A. No; no.

7 Q. Did you ever talk to Mr. Wakeham
8 about this memo?

9 A. No.

10 Q. Is Mr. Felton still alive?

11 A. No, he died recently.

12 Q. All right. Was this memo ever read
13 to you or did you read it before I showed it to
14 you for the first time?

15 A. No.

16 Q. Now, sir, in 1953, Timothy Hartnett
17 was president of Brown & Williamson, wasn't he?

18 A. I'm aware that Timothy Hartnett was
19 the president of Brown & Williamson. What years,
20 I don't know.

21 Q. All right. Now, Mr. Hartnett is
22 dead, isn't he?

23 A. He is -- to the best of my
24 knowledge, I never knew Mr. Hartnett.

25 Q. Are you aware of discussions that
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1 Mr. Hartnett took part in at the Plaza Hotel in
2 New York City on December 28, 1953?

3 A. No, I'm not.

4 Q. Has anyone ever shared with you
5 information about the meeting that took place
6 between the heads of six major U.S. tobacco
7 companies at the Plaza Hotel in New York City on
8 December 28th, 1953?

9 A. No.

10 MR. McGANN: Object to the form.

11 Q. So, if they entered into -- I'm
12 sorry, strike that.

13 So, if the heads of the major U.S.
14 tobacco companies got together at the Plaza Hotel
15 and entered into a gentleman's agreement not to do
16 in-house biological research, you're just unaware
17 of that, right?

18 MR. McGANN: Object, object to the
19 form.

20 A. I'm not aware of it.

21 Q. All right.

22 MR. McGANN: Assumes facts not in
23 evidence.

24 Q. Sir, has anyone ever read to you
25 Dr. Wakeham's testimony about Exhibit 140?

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1 A. No.

2 Q. Did anyone ever tell you that he
3 has testified in this case about there being a
4 gentleman's agreement?

5 MR. MCGANN: Object, lacks
6 foundation.

7 A. No.

8 Q. Now, sir, you did say, I believe,
9 that Mr. Hartnett was president of
10 Brown & Williamson?

11 A. He was either president or
12 chairman, I can't remember which.

13 Q. All right. And who followed him as
14 president or chairman of Brown & Williamson?

15 A. I think that it was Mr. Emory
16 Lewis.

17 Q. All right. Was there a gentleman
18 by the name of Finch?

19 A. There was.

20 Q. And was he a president or CEO of
21 Brown & Williamson at one time?

22 A. He was -- again, I'm not clear of
23 the title. These change around, but he was the
24 head of Brown & Williamson for a short period.

25 Q. All right. Between Mr. Hartnett
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1 and you coming on board, there were a number of
2 years, weren't there, sir?

3 A. There were, indeed.

4 Q. All right. And in that period of
5 time, did you really have much involvement in the
6 American Tobacco scene?

7 MR. MCGANN: Object to the form.

8 A. Not really.

9 Q. Would it be fair to say that in the
10 years between 1953 until the time you came on
11 board at Brown & Williamson in 1985, you really
12 were more focused on the B.A.T. Co. end of the
13 tobacco business?

14 A. That is correct.

15 Q. Okay. Now, while you were at
16 Brown & Williamson in the period of 1983 to 1993,
17 did Brown & Williamson ever do in-house biological
18 testing?

19 A. I wasn't here in 1983.

20 Q. I'm sorry, let me rephrase the
21 question. Between the period of time from 1985
22 until you retired in 1993, did Brown & Williamson
23 ever do in-house biological testing?

24 A. I'm not sure.

25 Q. Can you direct us to a single

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1 example of in-house biological testing that
2 Brown & Williamson did during that period?

3 A. I can't.

4 MR. McGANN: Object, the question
5 is vague as to what Brown & Williamson did.

6 Q. Now, sir, in the period before you
7 joined Brown & Williamson, did Brown & Williamson
8 ever do any in-house biological testing?

9 A. I don't know.

10 MR. McGANN: Same objection.

11 Q. Can you point to any in-house
12 biological testing that was done by
13 Brown & Williamson from 1954 until the time you
14 retired?

15 MR. McGANN: Same objection.

16 A. I'm not aware.

17 Q. You just aren't aware of any, are
18 you?

19 A. That's correct.

20 Q. All right. Has anyone showed you a
21 document written by Dr. Wakeham where he says,
22 quote, "We have reason to believe that in spite of
23 the gentleman's agreement from the tobacco
24 industry in previous years, that at least some of
25 the major companies have been increasing

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1 biological studies within their own facility"?

2 MR. MCGANN: Lacks foundation,
3 assumes facts not in evidence.

4 A. I'm not aware of that document.

5 Q. Sir, you said you became CEO of
6 Brown & Williamson in 1985; right?

7 A. That's correct.

8 Q. How did you get to be CEO?

9 A. I was appointed.

10 Q. By whom?

11 A. The board of B.A.T.U.S.

12 Q. B.A.T.U.S. And was your
13 appointment recommended by B.A.T. Industries?

14 A. I have no idea.

15 Q. Was your appointment approved by
16 the B.A.T. Industries' board?

17 A. I don't know.

18 Q. Now, sir, there was some discussion
19 with Brown & Williamson's counsel about Exhibit
20 317.

21 Do you have that, sir?

22 MR. MCGANN: What is it?

23 MS. WIVELL: Here, I will give you
24 another one.

25 MR. MCGANN: Oh, you know, it's
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1 right here if you want it.

2 THE WITNESS: 317?

3 MS. WIVELL: 317.

4 THE WITNESS: Okay. I have it.

5 Q. All right. Now, I believe you
6 said, and correct me if I am wrong, that this
7 policy was put into effect while you were at
8 Brown & Williamson?

9 MR. McGANN: Object.

10 A. No, I said this was issued prior to
11 my arriving at Brown & Williamson.

12 Q. All right. But it was a policy
13 that was in effect at Brown & Williamson; wasn't
14 it, sir?

15 MR. McGANN: Object,
16 mischaracterizes the testimony.

17 A. It had been communicated to
18 Brown & Williamson, yes.

19 Q. And it had been communicated by the
20 holding company, B.A.T. Industries PLC, hadn't it,
21 sir?

22 A. By Mr. Ricketts, yes.

23 Q. And he was, at the time he
24 communicated it, the secretary of B.A.T.
25 Industries PLC, right?

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1 A. I believe he was the secretary, he
2 was the director.

3 Q. Now, sir, in your experience as a
4 member of the B.A.T. Co. board as deputy director
5 of B.A.T. Co. and as a member of the B.A.T.
6 Industries board, as well as being CEO of
7 Brown & Williamson, when the holding company
8 issued a directive or set a policy, it expected
9 its subsidiary companies to follow that policy;
10 right?

11 MR. MCGANN: Object, vague and
12 directive mischaracterizes the testimony.

13 A. It expected that the operating
14 companies would pay due attention to the policy
15 that had been laid down --

16 Q. And --

17 A. -- in guiding their reactions to
18 it.

19 Q. So, in other words, it would be
20 fair to say that when the B.A.T. Industries board
21 approved this policy or this stance on smoking and
22 health, it expected that, to use your words,
23 Brown & Williamson would pay due attention to this
24 policy; right?

25 A. That is correct.

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1 Q. Now, you went through a lot of
2 corporate history with Mr. McGann,
3 Brown & Williamson's counsel, and I just want to
4 see if I've got this right.

5 B.A.T. Co. bought
6 Brown & Williamson sometime in the 1920s, right?

7 A. I'm sorry, can you repeat?

8 Q. B.A.T. Co., British-American
9 Tobacco Company Limited bought Brown & Williamson
10 sometime back in the 1920s?

11 A. I think that is correct.

12 Q. And from the period 1920 to 1976,
13 B&W was a B.A.T. Co. subsidiary?

14 A. That, I believe, is correct.

15 Q. And there was a reorganization that
16 took place in 1976 of the companies in England;
17 right?

18 A. That is correct.

19 Q. And B.A.T. Industries emerged as
20 the holding company/parent company of
21 Brown & Williamson in approximately 1976; right?

22 A. I think that's correct.

23 Q. All right. And despite the fact
24 that B.A.T. Co. was no longer the parent company
25 of Brown & Williamson, it still did have

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1 relationships with Brown & Williamson; didn't it?

2 MR. McGANN: Object to the form.

3 A. Relationships in the form that they
4 exchanged information and --

5 Q. Well, it was a little more --

6 A. -- meetings.

7 Q. I'm sorry.

8 MR. McGANN: Were you done?

9 THE WITNESS: Yes.

10 MR. McGANN: Okay.

11 BY MR. McGANN:

12 Q. There were formal written
13 agreements between Brown & Williamson and B.A.T.
14 Co. to pool research endeavors, weren't there,
15 sir?

16 MR. McGANN: Object, vague as to
17 time.

18 A. I'm not as sure that there were
19 formal written agreements, but I know that there
20 were agreements either verbally, I never saw -- I
21 don't recall seeing any that were written.

22 Q. So, if there are such written
23 agreements, you're just unaware of them, right?

24 A. Could be.

25 Q. All right. Now, sir, we had some

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1 discussion -- or you had some discussion with
2 Mr. McGann about Mr. Sheehy's letter to Imasco,
3 Exhibit 1476; right?

4 A. Correct.

5 Q. Do you have that -- can you get
6 that out, please?

7 A. Yeah.

8 Q. You have Exhibit 1476 before you,
9 sir?

10 A. I do, indeed.

11 Q. All right. Correct me if I am
12 wrong, but I think your testimony was that Imasco
13 had proposed a program to get rid of certain
14 elements of the -- of cigarette smoke; is that
15 right?

16 A. My recollection, and this may not
17 follow precisely the lines of my previous
18 testimony, my recollection is that Imperial
19 Tobacco proposed a program which was not
20 accepted -- to B.A.T. Co., which was not accepted
21 by B.A.T. Co. with regard to research as a whole.
22 This letter would appear to be a subsequent
23 attempt by Imasco now as the holding company of
24 Imperial Tobacco Company to take it up directly
25 with B.A.T. Industries.

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1 Q. Just so we are clear, what Imasco
2 and Imperial wanted to do was try to get rid of
3 the carcinogens in cigarette smoke; right?

4 A. It had a program which I now
5 remember the middle letter, the EMN program, which
6 was eliminate, modify, neutralize, just about
7 everything. We -- and we had no way of knowing
8 whether that was -- the program was relevant or
9 not.

10 Q. Well, I'm going to move to strike
11 as nonresponsive, sir.

12 My question is just a little bit
13 different.

14 MR. McGANN: Before you pose your
15 next question, I won't respond to motions to
16 strike and my silence is not acquiescence.

17 Q. My question is, this program wanted
18 to try and eliminate carcinogens according to the
19 very language of Exhibit 1476; right?

20 A. Well, it talks about -- can you
21 show me where it says "carcinogens"?

22 Q. I don't have my copy in front of
23 me.

24 MR. McGANN: Are you referring to
25 the first paragraph?

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1 MS. WIVELL: May I see it for a
2 moment?

3 MR. MCGANN: Yes (Handing).

4 Q. So we are clear here, sir,
5 Mr. Sheehy refers in the second paragraph to the
6 last sentence for the program for "Eliminating or
7 at least reducing to acceptable levels all
8 components claimed by our critics to be
9 carcinogenic"; right?

10 A. If that is what is here, that is
11 correct.

12 Q. All right. And do you recall that
13 the program that Imasco and Imperial wanted to
14 implement was to try and rid cigarette smoke of
15 carcinogens?

16 A. That was the proposal.

17 Q. All right. Now, sir, isn't it true
18 that B.A.T. Co. has known since the early '50s
19 that there were carcinogenic substances in
20 cigarette smoke?

21 MR. MCGANN: Object, vague as to
22 "carcinogenic."

23 A. There were components of smoke
24 which, I believe, had been reported as a certain
25 doses could be carcinogenic.

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1 Q. All right. Well, let's talk about
2 those for a moment. You understand that in the
3 '50s, it was reported that cigarette smoke
4 contained benzoprene; right?

5 A. I believe so.

6 Q. And you understand that in the
7 '50s, it was reported that cigarette smoke
8 contained acrolein, right?

9 A. I'm not sure, but --

10 Q. All right. Well, you know what
11 nitrosamines, right?

12 A. I do.

13 Q. There are tobacco-specific
14 nitrosamines which are found only in cigarette
15 smoke; right?

16 A. I'm not sure of that.

17 Q. Okay. You just don't know one way
18 or the other?

19 A. I don't.

20 Q. But you would agree that there are
21 nitrosamines in cigarettes?

22 A. I would.

23 Q. You would agree that nitrosamines
24 are carcinogens, right?

25 MR. McGANN: Objection, lacks
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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 foundation, vague as to carcinogen.

2 A. I don't know whether they are or
3 not. I may have read that they are.

4 Q. All right. And it was known in the
5 early '50s that cigarette smoke contained
6 nitrosamines; right?

7 A. I believe that is correct.

8 Q. All right. And you know that there
9 are a number of other substances which have been
10 reported in the early '50s that are carcinogenic
11 that are reported to be in cigarette smoke;
12 right?

13 MR. MCGANN: Object, lacks
14 foundation, vague as to carcinogenic.

15 A. I believe that is correct, but as I
16 was -- dosage is important.

17 Q. Well, sir, let me ask you this:
18 When you retired, there were still nitrosamines in
19 cigarette smoke, weren't there?

20 A. That's correct.

21 Q. And there was still benzoprene in
22 cigarette smoke, wasn't there?

23 A. I would imagine so, I don't know.

24 Q. Can you direct me to any carcinogen
25 which was known to be present in cigarette smoke

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1 in the early '50s, which is not in cigarette smoke
2 today?

3 MR. MCGANN: Object, assumes facts
4 not in evidence.

5 A. I think it's been stated previously
6 that selective filtration was tried and there was
7 no means of being able to remove them.

8 Q. So despite the research that has
9 been attempted, there just hasn't been a single
10 carcinogen that was known in the '50s to be
11 present in cigarette smoke but is not there today,
12 right?

13 MR. MCGANN: Object, assumes facts
14 not in evidence, vague as to carcinogen.

15 A. I'm not sure.

16 Q. You can't direct me to one?

17 A. I can't.

18 Q. Sir, we had talked earlier in this
19 deposition about INFOTAB; do you recall that?

20 A. I do.

21 Q. All right. Just so we are clear,
22 INFOTAB was an organization that B.A.T. Co. was
23 involved with; right?

24 A. It was a member, yes.

25 Q. And it was active in INFOTAB,

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1 wasn't it?

2 A. As a member, yes.

3 Q. Okay. And I think you testified
4 that it was the IN -- INFOTAB was the information
5 arm of CORRESTA; right?

6 A. I believe it.

7 Q. CORRESTA is an international
8 organization?

9 A. It is.

10 Q. It's an international organization
11 of manufacturers of products relating to
12 cigarettes; right?

13 A. It's -- it's an organization of
14 tobacco manufacturers.

15 Q. Well, sir, isn't it true that
16 Brown & Williamson had procedures for clearing
17 scientific and other documents to be sent to
18 INFOTAB, TAC and other members of the industry?

19 A. I'm not sure whether I remember
20 that or not.

21 Q. All right. Let me ask you this:
22 You would agree that Brown & Williamson scientists
23 were active in CORRESTA, weren't they?

24 A. They were.

25 (Brief recess.)

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1 (Pritchard Exhibit 1477 marked for
2 identification.)

3 Q. Sir, showing you what's been marked
4 as Plaintiff's Exhibit 1477, this is a document
5 that begins with Bates number 516003173; right?

6 A. That's correct number.

7 Q. All right. And it's a letter sent
8 by G. L. Dennis on B.A.T. Industries' stationery
9 to Mr. C. I. McCarty at B.A.T.U.S., right?

10 A. That's correct.

11 Q. And it sets forth procedures for
12 clearing scientific and other documents sent to
13 INFOTAB, TAC and other members of the industry,
14 ISC and other people outside the group, right?

15 A. That's correct.

16 Q. And these procedures that are
17 listed on the second page of the document were
18 procedures that were implemented at
19 Brown & Williamson; right?

20 A. I'm certain they were.

21 Q. All right. Now, sir, you had some
22 discussion with Mr. McGann, Brown & Williamson's
23 counsel, earlier today about research that was
24 taking place at GR&DC; right?

25 A. Correct.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Q. Okay. And you understand that
2 Brown & Williamson had a right to the results of
3 the information -- the research that was being
4 carried out at GR&DC, didn't it?

5 A. There was a fairly free exchange of
6 information.

7 Q. Well, sir, if there were
8 agreements -- strike that.

9 You are aware that reports from
10 GR&DC were sent to Brown & Williamson; right?

11 A. I believe they were, yes.

12 Q. And that had gone on since long
13 before you were actually a Brown & Williamson
14 employee; right?

15 A. That's correct.

16 Q. And you understand that there were
17 meetings that regularly occurred where
18 representatives from Brown & Williamson met with
19 other B.A.T. group companies; right?

20 A. Correct.

21 Q. And that had occurred long before
22 you became a Brown & Williamson CEO; right?

23 A. I believe so.

24 Q. And I think you said that one of
25 the reasons that the reorganization took place was

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1 because the research had become unfocused; is that
2 right?

3 A. At GR&DC?

4 Q. Yes, sir.

5 A. Yeah, I think that was one of the
6 reasons, yes.

7 Q. GR&DC was doing research for
8 Brown & Williamson; right?

9 A. It did some research for
10 Brown & Williamson.

11 Q. Well, sir, are you aware of a
12 document called the Frank Statement to Cigarette
13 Smokers?

14 A. I'm not really certain.

15 Q. Well, has anyone ever shared with
16 you that in 1954, Brown & Williamson and several
17 other of the major U.S. cigarette manufacturers
18 took out ads in 448 newspapers throughout the
19 country entitled "A Frank Statement to Cigarette
20 Smokers"?

21 A. I'm not familiar with it.

22 Q. All right. Well, let me show you a
23 copy of what has previously been marked as Sistad
24 Exhibit 2, A Frank Statement to Cigarette
25 Smokers.

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1 This document, other people have
2 testified about, and I would like you to take a
3 moment and read it to yourself, please.

4 (Pause)

5 A. Right.

6 Q. You've read it. All right. Now,
7 Brown & Williamson was one of the sponsors of this
8 Frank Statement to Cigarette Smokers, wasn't it,
9 sir?

10 A. Mr. Hartnett's name is listed here,
11 yes.

12 Q. And Mr. Hartnett was at the time
13 president of Brown & Williamson, wasn't he?

14 A. It says here, yes.

15 Q. Now, it says in this Frank
16 Statement and I quote, "We accept an interest in
17 people's health as a basic responsibility
18 paramount to every other consideration in our
19 business"; right?

20 A. That's what it says.

21 MR. MCGANN: Before you put your
22 next question, I have not seen this version of
23 it. Do you represent it's the same as the ad that
24 we have seen in other depositions?

25 MS. WIVELL: The language is the
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1 same. The language I'm going to be using is the
2 same.

3 MR. MCGANN: I won't object to the
4 questioning based on your representation. Go
5 ahead.

6 Q. Let me repeat the question.

7 Now, it says in this Frank
8 Statement and I quote, "We accept an interest in
9 people's health as a basic responsibility
10 paramount to every other consideration in our
11 business"; right?

12 A. It does.

13 Q. What does the word "paramount"
14 mean?

15 A. Oh --

16 MR. MCGANN: Object, vague.

17 A. Overwhelming.

18 Q. Could it also mean number one, most
19 important?

20 MR. MCGANN: Object, vague and
21 compound.

22 A. I haven't answered yet. I would
23 use the term number one, important, most
24 important.

25 Q. All right. Well, let me ask you
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1 this, sir: In light of your testimony that
2 research at GR&DC in 1985 had become unfocused, it
3 would be fairly safe to say that the research that
4 was being done there was not research directed
5 overwhelmingly at people's health, at smokers'
6 health was it, sir?

7 A. No, I would not characterize that.
8 What I meant by "unfocused" was that the
9 scientists were not necessarily and not all of
10 them at that, not necessarily respondent to the
11 needs of the manufacturers and the needs of the
12 company. They were pursuing their own avenues of
13 exploration.

14 Q. But it would be fair to say, sir,
15 that in 1985, the group research and development
16 facility at Southampton was not, as its
17 overwhelming focus, focusing on research having to
18 do with smokers' health, was it?

19 Mr. McGANN: Object, vague.

20 A. Well, it was look -- it was
21 investigating many areas. It was investigating
22 product development. It wasn't solely consigned
23 to a health question.

24 Q. Well, sir, product development,
25 that's making a product that smokers would like

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1 better; right?

2 MR. McGANN: Object,
3 mischaracterizes the prior testimony.

4 A. That's right.

5 Q. Let me go back to my question. You
6 would agree that in 1985, the "overwhelming," to
7 use your word, consideration of the research at
8 GR&DC was not smokers' health, was it?

9 A. I have no way of knowing. I
10 haven't got the program here in front of me.

11 Q. But, sir, weren't you the person
12 who was put in charge of -- I'm sorry, strike
13 that.

14 Weren't you the person to whom the
15 research coordinator reported in that period right
16 before the reorganization in early 1985?

17 A. Yes, I think I pointed out, it was
18 a period of about three or four months.

19 Q. Now, sir, based on what you know,
20 you would agree that, really, the focus of GR&DC
21 in 1985 was not whether cigarette smoking caused
22 disease; right?

23 MR. McGANN: Asked and answered.

24 A. The focus was the research and
25 development of the products that we were

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1 manufacturing. A part was devoted to the health
2 aspects, and a part was devoted to other aspects
3 of the business.

4 Q. Well, the part that was devoted to
5 other aspects of the research was much more
6 substantial than the part devoted to whether
7 cigarette smoking caused disease, wasn't it?

8 MR. McGANN: Object,
9 mischaracterizes the testimony.

10 A. I can't answer that question. I
11 know one of the questions -- one of the reasons
12 for looking at the reorganization was the way in
13 which those who were funding the operations were
14 concerned about the escalation in the costs in the
15 smoking and health area.

16 Q. Well, let me ask it this way; after
17 1985, you would agree that the research center at
18 Southampton was not overwhelmingly devoting its
19 resources to the issue of whether cigarette
20 smoking caused disease, was it?

21 A. No, because a lot of that work was
22 taking place outside.

23 Q. Well, actually, all of it was taken
24 outside, wasn't it?

25 MR. McGANN: Object,

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1 argumentative.

2 A. There was certain biological work
3 being undertaken inside.

4 Q. All right. But the biological
5 work, that was, for example, if someone wanted to
6 use a new additive in the cigarette, then the Ames
7 test would be used to determine whether it was
8 appropriate; right?

9 MR. McGANN: Object,
10 mischaracterizes the evidence.

11 A. Not necessarily.

12 Q. Well, isn't it true that all
13 disease work was stopped at GR&DC in 1985?

14 MR. McGANN: Object,
15 mischaracterizes the evidence.

16 A. Inhalation studies were stopped.

17 Q. And all biological research was
18 terminated with the exception of a two-man team
19 that was doing Ames testing, right?

20 A. Well, Ames test --

21 MR. McGANN: Object,
22 mischaracterizes the testimony.

23 A. Ames testing and monitoring what
24 was taking place outside with regard to possibly
25 new tests for biological activity because of

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1 limitations of the Ames test.

2 Q. Sir, could you take a look at
3 Exhibit 1292 that Mr. McGann gave you during his
4 examination.

5 MR. MCGANN: All set.

6 A. I have it.

7 Q. All right. The second page at the
8 top says, "Biological research to be" -- let's go
9 off the record.

10 (Discussion off the record.)

11 Q. Sir, directing your attention to
12 the top of the second page of Exhibit 1292, it
13 says there, "Biological research to be terminated
14 at GR&DC except for a two-man team for Ames test";
15 right?

16 A. That's correct.

17 Q. And then down in the second to the
18 last paragraph, it says, "It was agreed that work
19 on smoke retention should be terminated within the
20 group"; right?

21 A. That's correct.

22 Q. Now, smoke retention, those are
23 inhalation tests, right?

24 MR. MCGANN: Object.

25 A. I'm not sure.

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1 Q. Well, the inhalation tests, just so
2 we are clear, they were terminated, too; right?

3 A. They were.

4 Q. In other words, the tests trying to
5 find out what the effect of cigarette smoke on the
6 lungs of animals, those tests at GR&DC were
7 terminated?

8 MR. MCGANN: Object,
9 mischaracterizes the research.

10 A. They were terminated. The
11 intention being to do them outside.

12 Q. All right. Now, it says in the
13 immediate --

14 THE COURT REPORTER: I didn't hear
15 the answer after "terminated."

16 THE WITNESS: With the intention
17 being to do them outside.

18 Q. Now, it says in the immediately
19 preceding paragraph, "Nicotine studies were
20 considered important, and should be discussed at
21 the research director's meetings in order to
22 clarify future projects/location"; right?

23 A. That's correct.

24 Q. And, in fact, more resources were
25 given to the ability to transfer nicotine in

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1 cigarette smoke to research on that subject after
2 the reorganization of GR&DC in 1985; right?

3 A. I don't know whether more resources
4 were, but they were considered important.

5 Q. All right. Would you turn to
6 page -- or to Exhibit 1293 that you looked at with
7 Mr. McGann, Brown & Williamson's lawyer, earlier
8 today.

9 Exhibit 1293 says at the top, "Ray
10 Pritchard proposing fundamental change in B.A.T.
11 Industries R&D," doesn't it, sir?

12 A. It does, indeed.

13 Q. That's you; isn't it?

14 A. That's me.

15 Q. Okay. It says down in the part of
16 the paragraph in the middle of the page that
17 Mr. McGann stopped you from reading, it says,
18 "Payment to B.A.T. Co. will continue from the
19 operating companies, research may be funded by
20 B.A.T. Co. to B&W, Germany, et cetera"; right?

21 MR. MCGANN: Object to counsel's
22 statement about the prior testimony.

23 A. I'm sorry, you lost me when you
24 started reading.

25 Q. All right. Do you see the

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1 paragraph that starts, "Companies should not
2 spend"?

3 A. Yes.

4 Q. It goes on to say, "Payment to
5 B.A.T. Co. will continue from the operating
6 companies"; right?

7 A. Correct.

8 Q. Now, sir, you understand that
9 before the reorganization of GR&DC in 1985, the
10 charge -- the expenses that were incurred by the
11 research facility in Southampton were shared by
12 the various operating companies, right?

13 A. Not in their totality.

14 Q. Well, they were shared by the
15 tobacco operating companies, weren't they?

16 A. Yes, but the expenses in their
17 totality were not shared.

18 Q. All right. But Brown & Williamson
19 paid for a part?

20 A. Brown & Williamson paid for a part
21 of those expenses, yes.

22 Q. And that continued after the
23 reorganization, didn't it, sir?

24 A. It continued at a reduced level
25 because it was -- we were only funded in those

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1 instances work that was Brown & Williamson deemed
2 to have an interest in, and they did not wish to
3 carry out itself because it would be duplication.

4 Q. Now, sir, Brown & Williamson made
5 payment for those services to B.A.T. Co., didn't
6 it?

7 A. To B.A.T. Co.; correct.

8 Q. Now, would you turn to the third
9 page of Exhibit 1293?

10 A. Third page?

11 Q. Yes. There's a heading entitled
12 "Biological," isn't there?

13 A. There is indeed.

14 Q. And it says, "A belief that no
15 fundamental changes are possible that will be
16 believed, that will affect the external view of
17 smoking and health"; doesn't it?

18 A. It does.

19 Q. And it goes on to say, "No more
20 inhalation and disease state"; right?

21 A. Correct.

22 Q. Now, that means that there wasn't
23 going to be any more work on inhalation or whether
24 cigarette smoking caused disease at GR&DC; right?

25 MR. McGANN: Object, lacks

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1 foundation as to this document and it
2 mischaracterizes the research. That is, the
3 question mischaracterizes the research.

4 A. That would be -- appear to be
5 implied here, yes.

6 Q. Well, sir, this is a document that
7 you reviewed before the R&D director's meeting in
8 March of 1985, right?

9 MR. MCGANN: Object.

10 A. I did not review it.

11 Q. Could you get out Exhibit 1294.

12 A. I have it.

13 Q. Did you review Exhibit 1294 before
14 it was sent out?

15 A. No, I didn't.

16 Q. Now, sir, this refers to B.A.T.
17 Industries tobacco operating groups having
18 reassessed their overall R&D needs; right?

19 MR. MCGANN: Where are you?

20 MS. WIVELL: In the first
21 paragraph.

22 A. Yes, I see that.

23 Q. Now, did the B.A.T. Industries
24 board approve the reorganization of GR&DC in 1985?

25 A. Not to my knowledge.

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1 Q. Were you on the board at that time?

2 A. On the board of --

3 Q. B.A.T. Industries.

4 A. No, I wasn't.

5 Q. So, it may have approved the
6 reorganization and you've just not been aware of
7 it?

8 MR. MCGANN: Object to the
9 question.

10 A. Might have done, but unlikely.

11 Q. All right. Well, if you turn to
12 the top of page 4, it says, "B.A.T. Industries and
13 the board of B.A.T. Co. wish to affirm their
14 commitment to the tobacco industry and to
15 continued growth within it"; right?

16 A. That's what it says.

17 Q. All right. And the B.A.T.
18 Industries' board did reaffirm its commitment to
19 the tobacco industry at the time of this
20 reorganization in 1985, didn't it?

21 MR. PANGROSSI: Objection, lack of
22 foundation.

23 A. Whether it confirmed it this moment
24 in time, I don't know, but I know from time to
25 time, B.A.T. Industries did confirm its commitment

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1 to tobacco.

2 Q. Now, sir, in the testimony that you
3 gave in response to questions from
4 Brown & Williamson's counsel, you talked about the
5 fact that Brown & Williamson -- I'm sorry, strike
6 that.

7 In response to the questions you
8 gave from B&W's counsel, you said B.A.T.
9 Industries did not conduct research; do you recall
10 that?

11 A. That's correct.

12 Q. Now, sir, are you aware of the work
13 on genetic plant engineering that B.A.T.
14 Industries was engaged in in the early '80s?

15 MR. PANGROSSI: Objection, assumes
16 facts not in evidence.

17 A. Genetic work in the '80s?

18 Q. Yes, sir, in the early '80s.

19 A. No, I'm not.

20 Q. Were you aware of work that B.A.T.
21 Industries was involved in involving Twyford?

22 MR. PANGROSSI: Same objection.

23 A. I don't think that was B.A.T.

24 Industries, I believe that was B.A.T. Co.

25 Q. Sir, do you know -- have you

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 reviewed the testimony on that issue in this case?

2 A. No, I haven't.

3 Q. Have you reviewed the -- strike
4 that.

5 Are you aware of research that
6 B.A.T. Industries was involved with concerning
7 NPI?

8 A. No, I'm not.

9 Q. Do you even know what NPI is?

10 A. No, I don't.

11 Q. Now, there was a time when -- I'm
12 sorry -- there was a time when B&W reported
13 directly to B.A.T.U.S.; right?

14 A. That's correct.

15 Q. But in 1990, there was a
16 reorganization and B&W reported directly to B.A.T.
17 Industries after that, didn't it?

18 A. That is correct.

19 Q. And after 1990, there wasn't any
20 responsibility that B.A.T.U.S. had for B&W, was
21 there?

22 A. That's correct, but as I explained
23 to counsel this morning, after the disbanding of
24 all the staff of B.A.T.U.S., there was a period
25 before the final books could be wound up, but I'm

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1 not sure how long that took, so B.A.T.U.S. may
2 have been in existence for some time, but there
3 were no staff there.

4 Q. Do you recall the testimony when
5 you said B.A.T. Industries sold off many of the
6 related businesses; do you recall that?

7 A. I do.

8 Q. And that did occur, didn't it?

9 A. That did occur.

10 Q. And it sold off, amongst other
11 things, the retail subsidiaries that
12 Brown & Williamson had?

13 MR. MCGANN: Object, it
14 mischaracterizes the testimony.

15 A. I don't think Brown & Williamson
16 had any subsidiaries. There were subsidiaries of
17 B.A.T.U.S.

18 Q. Fair enough. B.A.T. Industries
19 sold off, for example, the retail subsidiaries of
20 B.A.T.U.S.?

21 A. Actually, B.A.T.U.S. sold them off.

22 Q. Well, now, one of the holdings that
23 B.A.T. Industries was left with in the United
24 States was Farmers Insurance; right?

25 A. That's correct.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Q. And Farmers Insurance gives
2 nonsmoker discounts, doesn't it?

3 A. I don't know.

4 MR. McGANN: Lacks foundation.

5 Q. Now, you said that B.A.T.U.K.E. was
6 the export arm of B.A.T. Co.; is that right?

7 A. B.A.T.U.K.E. was a company that was
8 formed at the time that -- or shortly after
9 Britain joined the common market, which enabled
10 B.A.T. Co. to sell cigarettes in the United
11 Kingdom, and the company was formed, and it was
12 called B.A.T.U.K. and Export and it took over the
13 handling of the export business from the two
14 cigarette factories in the United Kingdom.

15 Q. All right. I just wanted to make
16 sure that the Ladies and Gentlemen understood that
17 export referred to outside of the United Kingdom?

18 A. Outside, outside of the United
19 Kingdom; that is correct.

20 Q. Now, there was some discussion that
21 you had with regard to Premiere and Ariel.

22 Do you remember that.

23 MR. McGANN: Did you say Ariel?

24 A. There was Premiere and Ariel and
25 Airbus.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Q. Well, you recall talking about
2 Brown & Williamson's counsel about that this
3 morning, right?

4 A. I do indeed.

5 Q. Now, you understood that
6 Brown & Williamson had done some consumer research
7 in 1988 about the subject of whether consumers
8 would be interested in a tar-free smokeless
9 cigarette; right?

10 A. It's -- I can't recall it, but they
11 may have done it.

12 (Pritchard Exhibit 1478 marked for
13 identification)

14 Q. Sir, showing you what's been marked
15 as Plaintiff's Exhibit 1478, this is a document
16 entitled, "Project Top Gun, Consumer Reactions to
17 New Cigarette Concepts, A Presentation of Research
18 Results Prepared for Brown & Williamson Tobacco
19 Corporation by Analytic Insight, Inc., May 20th,
20 "1988"; right?

21 A. That's correct.

22 Q. And the Bates number is 465663373
23 on its first page; right?

24 A. Correct.

25 Q. Now, sir, have you seen this

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1 document before?

2 A. No, I haven't.

3 Q. Would you turn to the third page of
4 the document. There, it says, "A total of 63
5 one-on-one in-depth interviews and six focus
6 groups with conducted on April 25th, 26th, 27th
7 and 28th 1988 in Minneapolis, Minnesota"; right?

8 A. I'm sorry, my page 3 --

9 Q. I'm sorry, I'm on the third page of
10 the document, which is actually numbered page 2.
11 It ends with Bates number 375.

12 A. I've got it.

13 Q. And at the top of the page that
14 ends with Bates number 375, it says, "A total of
15 63 one-on-one, in-depth interviews and six focus
16 groups were conducted on April 25th, 26th, 27th
17 and 28th, 1988, in Minneapolis, Minnesota"; right?

18 A. Says that.

19 Q. All right. And were you informed
20 about the results of this consumer research that
21 was done when you were given your update on
22 Project Airbus?

23 A. No, I wasn't.

24 Q. Did anyone tell you the results of
25 the consumer reaction to an Ellis or Premiere-type

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 cigarette?

2 A. No.

3 Q. All right. Could you take a moment
4 and look through the documents, sir.

5 (Pause)

6 You have now had the opportunity to
7 look through Exhibit 1478; right?

8 A. I'm sorry?

9 Q. You had the opportunity to look
10 through the exhibit?

11 A. Yes, I have looked through it. I
12 haven't assimilated it.

13 Q. All right. But you would agree
14 that the respondent's reactions are reported in
15 this document; right?

16 A. I would.

17 Q. All right. In other words, they
18 did consumer testing and then they wrote down and
19 reported the results of that consumer testing;
20 right?

21 A. That apparently is what happened.

22 Q. All right. And as a matter of
23 fact, most of the consumers responded quite
24 positively to the concept of a low or a tar-free,
25 smokeless cigarette; right?

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 MR. McGANN: Lacks foundation.

2 A. That would appear to be the case in
3 some instances.

4 Q. And, in fact, those results were
5 reported to Brown & Williamson executives, weren't
6 they?

7 A. That would apparently appear to be
8 the case, yes.

9 (Pritchard Exhibit 1479 marked for
10 identification)

11 Q. Sir, showing you what's been marked
12 as Plaintiff's Exhibit 1479, this is a report
13 entitled "Project Top Gun Preliminary Results"
14 that was sent to Tom Sandefur on May 26th, 1988;
15 right?

16 A. That is what it says.

17 Q. And Exhibit 1479 bears the Bates
18 number 465663455 on its first page; right?

19 A. Correct.

20 Q. And basically, it summarizes the
21 preliminary results of the product research that
22 we just looked at in Exhibit 1478, doesn't it?

23 A. It does.

24 MR. McGANN: Object,
25 mischaracterizes what the document says.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Q. And it says in the first -- I'm
2 sorry, it lists conclusions on the first page,
3 doesn't it?

4 A. It does list conclusions.

5 Q. And under "Overall appeal," it
6 says, "Respondent's generally were quite
7 interested in the basic ideas of tar-free and
8 smokeless cigarettes. Many indicated they would
9 purchase a pack to try, if such cigarettes were
10 available, which indicates a very strong appeal";
11 right?

12 A. That's what it says.

13 Q. And it goes on to talk about what
14 the people who were tested thought of perceived
15 benefits of such a cigarette; right?

16 A. It does.

17 Q. And it says, "For most
18 respondent's, the no-tar feature offered by all
19 three concepts is the most important perceived
20 benefit"; right?

21 A. That's what it says.

22 Q. And it goes on to say, "The concept
23 of a smokeless cigarette for most respondents is a
24 somewhat less important perceived benefit"; right?

25 A. Correct, that's right.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Q. So, you would agree -- strike
2 that.

3 Tom Sandefur was at the time
4 president of Brown & Williamson, wasn't he, sir?

5 A. He was, indeed.

6 Q. Now, you would agree that as of the
7 middle of May of 1985, Brown & Williamson knew
8 that smokers were very interested in the concept
9 of a no-tar cigarette; right?

10 MR. McGANN: You misspoke on the
11 date.

12 Q. I'm sorry. Let me rephrase the
13 question. You would agree that Brown & Williamson
14 knew as of May, 1988, that cigarette smokers were
15 very interested in the concept of a no-tar
16 cigarette; right?

17 A. As noted from the study that had
18 been done.

19 Q. How much money had
20 Brown & Williamson spent on developing such a
21 cigarette prior to doing this product research,
22 sir?

23 MR. McGANN: Object, vague as to
24 date.

25 A. I have no idea.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Q. Had Brown & Williamson spent any
2 money at all trying to develop a no-tar cigarette
3 before May of 1988?

4 A. I'm not certain when Airbus was
5 started, because that's when we started spending
6 money.

7 Q. Okay. So, before that,
8 Brown & Williamson hadn't spent any money at all
9 on an Airbus-type concept; right?

10 MR. McGANN: Object as to what
11 "that" refers to.

12 A. I don't know.

13 Q. You can't direct us to any -- any
14 money that was spent or any research that was
15 done, though?

16 A. No.

17 MR. McGANN: Object,
18 mischaracterizes the evidence in this very
19 deposition.

20 Q. Now, sir, just so we're clear here,
21 I'm talking about Brown & Williamson doing the
22 research.

23 You can't direct me to any research
24 that was done by Brown & Williamson on the subject
25 of a smokeless or tar-free cigarette before it

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1 began Project Airbus; right?

2 MR. MCGANN: Object,
3 mischaracterizes the evidence in this deposition.

4 A. Not from memory, I can't.

5 Q. Now, sir, I'm going to show you
6 what's previously been marked as Plaintiff's
7 Exhibit 523.

8 MR. CASSIS: We are one minute from
9 being an hour. How are we doing?

10 MS. WIVELL: I'm getting there.

11 Q. You were present at this meeting,
12 weren't you, sir?

13 A. The roll call shows I was, yes.

14 Q. And Exhibit 523 is the tobacco
15 strategy review team meeting minutes from October
16 31st of 1988; right?

17 A. That's correct.

18 Q. And at this time, concern was
19 expressed about product Premiere, wasn't it?

20 MR. MCGANN: Object. I think the
21 question is vague, unless you want to direct him
22 to something.

23 Q. Project Premiere was discussed at
24 this meeting, wasn't it, sir?

25 A. I'm trying to find it.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Q. Third page.

2 A. Third page. Yes, it was.

3 Q. And it was a concern of the people
4 at the TSR team meeting that Premiere might be
5 considered a drug by the U.S. government; right?

6 MR. MCGANN: Object, calls for
7 speculation as to the attendees' thoughts.

8 A. There was a question as to whether
9 it might be classified as a drug.

10 Q. And that question was discussed at
11 the TSR team meeting on October 31st of 1988;
12 right?

13 A. It was mentioned at a meeting.

14 Q. All right. Now, sir, you
15 understood, didn't you, that the taste problems --
16 strike that.

17 You understood that
18 Brown & Williamson scientists had determined that
19 the taste problems with Premiere could be easily
20 overcome?

21 MR. MCGANN: Object,
22 mischaracterizes the evidence.

23 A. I'm not sure that they have said
24 they could be easily overcome, but being
25 scientists, I'm sure they felt that they could

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1 overcome them.
2 (Pritchard Exhibit 1480 marked for
3 identification)
4 MR. CASSIS: How much longer do you
5 think you will have?
6 MS. WIVELL: Ten minutes. That's
7 an estimate.
8 MR. CASSIS: Let's go another five
9 and see what your estimate is at that point.
10 Q. Sir, showing you what's been marked
11 as Plaintiff's Exhibit 1480, this is a document
12 that down in the bottom, right-hand corner says
13 "JSW 12"; is that right?
14 A. That's correct.
15 Q. And it's Airbus Status, December
16 1988; right?
17 A. That's what it's headed.
18 Q. Now, it says here --
19 MR. MCGANN: Before you pose your
20 question, is this a document you had designated?
21 MS. WIVELL: This is a document you
22 designated.
23 MR. MCGANN: That's what I thought.
24 I just wanted to be clear on that. Okay.
25 Q. On the second page, it says, "The
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1 basic Premiere design does work in the sense that
2 it delivers a flavored aerosol containing
3 nicotine" --

4 THE COURT REPORTER: I'm sorry --
5 could you repeat --

6 Q. I'll start again. At the top of
7 the second page, it says, "The basic Premiere
8 design does work, in the sense that it delivers a
9 flavored aerosol containing nicotine and other
10 tobacco volatiles"; right?

11 A. It does.

12 Q. And it goes on to say, "However,
13 due to the emerging and extensive patent
14 literature regarding this design, Airbus
15 development has focused almost exclusively on
16 concentric and sequential moving furnace designs,"
17 right?

18 A. That's what it says.

19 Q. All right. Now, is it your
20 testimony that that sentence refers to the
21 Ellis-type product?

22 A. The concentric, the sequential move
23 in furnace design, I haven't the faintest idea.

24 Q. Sir, are you aware of the fact that
25 B.A.T. Co. scientists had developed prototypes for

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1 the Ellis cigarette years before December, 1988?

2 A. No, I wasn't.

3 Q. Were you aware that the B.A.T. Co.
4 scientists had forwarded prototypes of Ariel
5 cigarettes to Brown & Williamson years before
6 1988?

7 A. No, I wasn't.

8 Q. Did anyone ever tell you in your
9 Airbus review that B.A.T. Co. scientists had
10 developed prototypes for Ariel/Ellis-type
11 cigarettes?

12 MR. MCGANN: Let me object, unless
13 the witness has a chance to review Exhibit 1295,
14 which is the Airbus review.

15 A. I'm not clear.

16 MR. MCGANN: You can answer the
17 question, if you remember what's in the Airbus
18 review without looking at it. That's what she
19 wants you to do.

20 Do you remember the question?

21 THE WITNESS: Okay. Could you
22 rephrase the question again?

23 Q. Certainly, sir. Did anyone ever
24 tell you in your Airbus review that B.A.T. Co.
25 scientists had developed prototypes for the Ariel

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1 or Ellis-type cigarette?

2 A. Prior to the Airbus --

3 Q. Review, yes, sir.

4 A. Review -- I mean, prior to the
5 initiation of work on Airbus?

6 Q. Yes.

7 MR. McGANN: Object. That changes
8 the question. I think the record is really
9 confused.

10 MS. WIVELL: I'll rephrase the
11 question.

12 Q. Sir, before the scientists at B&W
13 reviewed Airbus with you, did any of them ever
14 tell you that B.A.T. Co. scientists had developed
15 protocols for the Ariel/Ellis cigarette?

16 A. Not that I can recall.

17 Q. At the B.A.T. Co. -- I'm sorry,
18 strike that.

19 At the Airbus review or in the
20 materials they prepared for you to review Airbus,
21 did they ever tell you that B.A.T. Co. scientists
22 had developed prototypes for the Ellis cigarette?

23 MR. McGANN: Object, unless the
24 witness has a chance to review Exhibit 1295, the
25 Airbus.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 MS. WIVELL: Why don't you give him
2 Exhibit 1295. I want the record to be clear.

3 MR. MCGANN: Well, that's fine.
4 We're now getting more and more over time, Marti.
5 Do you have any sense when you're going to wrap
6 up?

7 MS. WIVELL: You're asking me --

8 MR. MCGANN: Yeah.

9 MS. WIVELL: -- right now, after I
10 allowed you to go over your time?

11 MR. MCGANN: I'm just asking you
12 when you're going to finish up?

13 MS. WIVELL: I have about four more
14 exhibits. That's it.

15 MR. MCGANN: I didn't -- I'm not
16 sure that I did go over my time.

17 MS. WIVELL: Well, I believe you
18 did.

19 MR. MCGANN: Marti -- Marti, let's
20 just talk one at a time. I think you're an
21 advocate of that point of view. Let's talk one at
22 a time.

23 I approached you before my
24 examination and said, "Would you agree to give me
25 ten minutes at the end if I need it," and you

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1 said, "Let's see how you do."

2 I believe -- you didn't agree to do
3 that. You said, "Let's see how you do."

4 And I said, "Fine, we can work
5 together on that."

6 I believe I came in on time. I'm
7 not shutting you off. It's now 10 percent over
8 your time. You can keep going a little bit, I'm
9 just asking you, are you getting close to
10 concluding?

11 MS. WIVELL: Yes. I think I just
12 told him just a few minutes ago that it would be
13 ten minutes.

14 MR. MCGANN: Well, okay. We've got
15 five minutes left now.

16 MS. WIVELL: Well, I also -- I also
17 want the record to reflect, Andy, that I told you
18 it wasn't my style to cut people off and be that
19 way.

20 MR. MCGANN: Nor is it mine. Nor
21 is it mine. That's why I'm simply asking, Marti,
22 how much time -- you're over time, and saying,
23 "How much more?" I'm not saying "Stop." We're
24 not walking out.

25 MR. CASSIS: As counsel for
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1 Mr. Pritchard, let me make the record clear that
2 we've gone much over the hour that his doctors
3 want him to go. I'm allowing him to do it. Let's
4 go on and try to get finished right now.
5 MS. WIVELL: I agree.
6 MR. CASSIS: Let's go.
7 MS. WIVELL: He's reviewing the
8 record -- he's reviewing the document.
9 MR. CASSIS: I understand.
10 Q. You've reviewed Exhibit 1295;
11 right?
12 A. I have indeed.
13 Q. All right. And in that review, did
14 the B&W scientists tell you that at any time
15 before this review occurred, B.A.T. Co. scientists
16 had developed prototypes for the Ariel cigarette?
17 A. I don't remember them saying that.
18 Q. And it's not in this document, is
19 it, sir?
20 MR. McGANN: Object,
21 mischaracterizes what's in the document.
22 MS. WIVELL: I'm sorry, I think you
23 spoke over his answer.
24 MR. McGANN: No, I was objecting.
25 He spoke over my objection.
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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 Go ahead.

2 A. I didn't see anything in there.

3 Q. It's news to you as you sit here
4 today that there were prototypes; right?

5 A. That is correct.

6 Q. Now, it says on the second page of
7 Exhibit 1295 that the first -- concerning Project
8 Airbus, these first-year objectives have been met;
9 right?

10 A. That's correct.

11 Q. And you understood that by the time
12 this review occurred in March of 1989, the
13 objectives which had been set for the first year
14 of Project Airbus work had been met; right?

15 MR. MCGANN: Object, misleading as
16 to what the document is referring to.

17 A. The document says the first-year
18 objectives had been met; yes, correct.

19 Q. Now, if you turn to the --
20 actually, the fourth page, the page that ends with
21 Bates number 366, it says at the end of the second
22 paragraph, "Concerning the Premiere product, but
23 the concept developed by Premiere remains viable
24 for the long term, and we must recognize that
25 significant additional research is needed," right?

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 A. It says, "Though we must recognize
2 that significant additional research is needed."

3 Q. All right. Sir, your testimony was
4 that Airbus continued at Southampton; is that
5 right?

6 MR. McGANN: Mischaracterizes his
7 testimony.

8 A. Fundamental research directed
9 towards an Airbus-type project continued at
10 Southampton.

11 Q. Well, sir, isn't it true that,
12 actually, what happened was that Project Airbus
13 was considered to be of low or no priority after
14 1989?

15 MR. McGANN: Object,
16 mischaracterizes the evidence and what the witness
17 just said.

18 A. Not that I am aware of.
19 (Pritchard Exhibit 1481 marked for
20 identification)

21 Q. Sir, showing you what's been marked
22 as Plaintiff's Exhibit 1481, this is a document
23 bearing the Bates number 400459297; right?

24 A. Correct.

25 Q. And it's dated August 22nd, 23rd,
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1 24th, 1990; right?

2 A. It is.

3 Q. It's from a product development
4 conference that occurred in Montreal, Canada;
5 right?

6 A. That's what it says.

7 Q. And this document is marked
8 "Secret," isn't it?

9 A. It is.

10 Q. Would you turn to the page that
11 ends with Bates number 301, and there at the
12 bottom of the page under the heading "Projects of
13 Low or No Priority" is listed Project Airbus,
14 isn't it?

15 A. It is.

16 Q. All right. And isn't it true that
17 Project Airbus was actually shelved when the work
18 was transferred to Southampton?

19 MR. MCGANN: Object,
20 mischaracterizes the testimony.

21 A. Not that I am aware of.

22 Q. Just so we're clear, Project Airbus
23 was aimed at developing a Premiere-like product
24 for the B.A.T. group; right?

25 A. It was.

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 (Pritchard Exhibit 1482 marked for
2 identification)

3 Q. Sir, showing you what's been marked
4 as Plaintiff's Exhibit 1482, this is a document
5 that bears the Bates number 401048152; right?

6 A. That is correct.

7 Q. And it says, "Tobacco Strategy
8 Review Team Meeting, 30th, November, 1990"; right?

9 A. It does.

10 Q. And if you look at the bottom of
11 the third paragraph at the end, doesn't it say,
12 "Finally, any projects aimed at radically
13 different cigarettes," paren, "CF, Premiere,"
14 paren, "have been largely shelved"?

15 A. It does say that.

16 Q. Sir, do you recall testimony that
17 you gave in response to questions from B&W's
18 counsel about whether lawyers played a role in
19 research policy?

20 A. I do.

21 Q. And am I correct that you told the
22 Ladies and Gentlemen of the jury that when
23 Mr. Heard visited the United States after the
24 reorganization of GR&DC in 1985, he didn't meet
25 with any lawyers because there was no need to?

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 MR. McGANN: Object,
2 mischaracterizes the testimony.

3 A. I was not aware of him having met
4 with any lawyers, no.

5 Q. But he did meet with lawyers,
6 didn't he, sir?

7 A. I don't know.

8 Q. It's very possible he could have
9 met on a regular basis with lawyers without you
10 knowing it; isn't that true, sir?

11 MR. McGANN: Object, calls for
12 speculation.

13 A. Anything could happen without me
14 knowing.

15 (Pritchard Exhibit 1483 marked for
16 identification)

17 Q. Sir, showing you what's been marked
18 as Exhibit 1483, this is a document that at the
19 top is marked "Secret"; right?

20 A. It is.

21 Q. And it says, "Visit to B&W
22 Louisville, Coordination of R&D, 16th, 17th,
23 January, 1990"; right?

24 A. It does.

25 Q. And it has Alan Heard's name at the
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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1 top?

2 A. It does.

3 Q. And if we look at the end of the
4 document, we see his initials above the date
5 February 1st, 1990; right?

6 A. We do, indeed.

7 Q. Sir, who is K. Wells?

8 A. That is Kendrick Wells.

9 Q. He is a lawyer, isn't he, sir?

10 A. He is a lawyer.

11 Q. And Chuck Wall is a lawyer with
12 Shook, Hardy & Bacon in Kansas City; right?

13 A. That's what it says here.

14 Q. All right. And Shook,
15 Hardy & Bacon, you learned when you joined B&W,
16 was a law firm that represented the tobacco
17 industry in the United States; right?

18 A. I believe that is correct.

19 Q. And it talks about discussions that
20 Mr. Heard had with K. Wells and Chuck Wall; right?

21 A. It appears to.

22 Q. And it says under the heading,
23 "Discussions with K. Wells and Chuck Wall, Shook,
24 Hardy & Bacon, whilst product innovation strategy
25 should anticipate regulatory intervention and

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1 enable the company to respond promptly in the
2 marketplace to new requirements, the strategy
3 should not be formulated in any way as to create
4 the misleading impression that the company accepts
5 that its current products have been shown to be
6 harmful"; right?

7 A. That is what it says.

8 Q. And it goes on to say, "There is a
9 clear need for a program to familiarize R&D
10 managers and in-house smoking and health experts
11 with the issues and arguments in current product
12 liability litigation"; right, sir?

13 A. That is what it says.

14 Q. So, sir, would you like to
15 reconsider your testimony about whether Mr. Heard
16 met with lawyers when he came to the United
17 States?

18 MR. McGANN: Object,
19 mischaracterizes prior testimony, argumentative.

20 A. I said I did not know that he had
21 met with them.

22 Q. But it appears that he had?

23 A. It appears from this document that
24 he had.

25 Q. Do you know how many other meetings
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1 he may have had with lawyers?

2 A. No, I don't.

3 Q. This comes as a shock to you,
4 doesn't it, sir?

5 MR. MCGANN: Object,
6 argumentative.

7 A. I didn't know of the meeting.

8 MS. WIVELL: I have nothing
9 further.

10 MR. CASSIS: We are going to take a
11 break at this time for lunch.

12 MR. MCGANN: Mr. Pritchard will
13 reserve the right to read and sign.

14 MS. WIVELL: Thank you.

15 (Deposition recessed at 12:48
16 o'clock p.m.)

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1 C E R T I F I C A T E

2 I, Sue A. Terry, RPR/CRR, hereby certify
3 that I am qualified as a verbatim shorthand
4 reporter; that I took in stenographic shorthand
5 the testimony of RAYMOND J. PRITCHARD, Volume III,
6 at the time and place aforesaid; and that the
7 foregoing transcript consisting of pages 350
8 through 506 is a true and correct, full and
9 complete transcription of said shorthand notes, to
10 the best of my ability.

11 Dated at Lexington, Kentucky, this 29th
12 day of October, 1997.

13

14

15 _____
16 SUE A. TERRY, RPR/CRR
17 Notary Public

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